

Privilege—Mr. MacKay

Conservative MP Elmer MacKay said Monday that a \$250,000 law suit launched against him may provide the courtroom forum he has sought for a judicial look at Sky Shops Export Ltd., under investigation by the RCMP.

From the *Montreal Gazette* of Tuesday, February 3, I quote the following:

After the suit was filed, MacKay said in an interview: "Maybe here's the judicial inquiry we requested."

Again, in the *Ottawa Citizen* for Wednesday, February 4:

Mr. MacKay said he regards the law suit as a chance to raise in court questions about Sky Shops Export Ltd., bought out in 1972 by Thomcor—

I am concerned because the question of prejudice of the proceedings before the tribunal applies not only to a member of parliament but also to the other parties involved in the suit. It has been recognized that this House is a tribune, or a podium of considerable power, and while I am very conscious of the point raised by the hon. member for Winnipeg North Centre, that on the one hand a member of parliament cannot be shut up by commencing a law suit against him, neither should this chamber—and here is the dilemma—be used by a party to an action in order to prejudice the case of his opponent.

It is true that in this instance the proceedings are at a very early stage. However, as a barrister of some experience and reputation, Your Honour knows that it is a determination to be made by the defendant as to whether he will retain a civil jury of six individuals, and the jury notice has yet to be served. I am not attacking or attempting to attack the hon. member for Central Nova; I am attempting to develop an argument relating to the dangers which there are in the positions being taken. There is a danger that a member of parliament might use his privileges in this House to prejudice a trial in which he is involved.

I agree with the hon. member for Peace River that the matter in its whole context is one which could well be referred to a committee for study. In conclusion, therefore, I suggest that the original ruling of Your Honour was the proper ruling. In this instance there has been an indication by a party to the action, who is also a member of this House, that he regards the action as a forum in which to deal with the matters he has brought to the attention of this House. He has said that expressly. In addition, he has forgone the immunity which otherwise might be available, and I am not prepared to debate whether that immunity is available in this case, or at least that immunity subject to the nature of the release and the facts which were attempted to be communicated therein.

● (1610)

In conclusion, I suggest that this is a novel case, that in this instance freedom of speech has been voluntarily forgone by the hon. member and therefore is not in question. He also chose voluntarily to extend the whole matter that he has brought to the attention of the House within an action that was brought outside the House. In those two particulars, this case is distinguishable from any matters which have previously been brought to Your Honour's attention or to the attention of your predecessors.

Hon. Marcel Lambert (Edmonton West): Mr. Speaker, I do not wish to traverse any of the arguments advanced by

[Mr. Blais.]

my colleagues in the House on this important question. I simply point out that the arguments as to whether the hon. member for Central Nova (Mr. MacKay) waived his rights and privileges as an hon. member go only to the question of a bailiff or somebody attending upon him to serve documents. That is all that is to be said on that point. That is the only waiver he made. He did not waive any of his other rights as a member of parliament, and therefore the other argument about the statement made by my colleague for Central Nova is totally irrelevant to this particular question.

In this instance there has been started a civil lawsuit against an hon. member on a narrow issue, in this case libel with regard to a statement made by the hon. member as to pricing policy. That is the only thing in that lawsuit. Having had some experience in this House and some experience in the chair which you occupy, Mr. Speaker, it is my view that the rights of members—the parliamentary secretary insisted on this and admitted it—to ask questions which are relevant, which are urgent, which seek information, should be as wide as possible. The contention of sub judice would place a limitation on that right.

I suggest, as other speakers have, that every exception placing limitations on the right to ask questions must be interpreted narrowly. It is not the right which must be interpreted narrowly; it is the exception or derogation of the right which should be interpreted narrowly. I therefore contend that a party commencing an action against an hon. member on a very narrow, definable issue, should in no way preclude that hon. member or any other hon. member from asking the Solicitor General (Mr. Allmand) or any other member of the treasury benches questions about an investigation predating the commencement of the action and dealing, as we know, with a search in the precincts of parliament and elsewhere by the RCMP. That is an entirely different question.

There are two considerations. Firstly, the identities of the parties, shall we say, on the other side, or outside, have not turned out to be the same, while the hon. member involved has turned out to be the same. Secondly, I repeat, the right of hon. members to ask questions should be as wide as possible and any derogation from that right should be interpreted narrowly.

Mr. Speaker: Order, please. With regard to the last statement made by the hon. member for Edmonton West (Mr. Lambert), the House will recall that I permitted the hon. member for Central Nova (Mr. MacKay) to put a question to the Solicitor General (Mr. Allmand) about the general investigation. It seemed to me that there could not be any possible connection between that answer, as to the timing of that particular investigation, and any lawsuit.

In any event, I am reluctant to put the Chair in the position of attempting to analyse issues at stake in any lawsuit in order to determine which questions ought to be put and which ought not to be put. That would put the Chair in an impossible position. I wish to seek general guidance with regard to the question of sub judice, particularly to do with lawsuits, and to clarify it if possible. I also wish to understand if there is anything of special significance which may restrict the hon. member because he is a party to the litigation. Orders of the day.