

HOUSE OF COMMONS

Friday, March 11, 1966

The house met at 11 a.m.

ADMINISTRATION OF JUSTICE

MUNSINGER INVESTIGATION— SPEAKER'S RULING

Mr. Speaker: Order. Yesterday the hon. member for Calgary North (Mr. Harkness) raised a question of privilege affecting the Minister of Justice (Mr. Cardin).

Yesterday I referred hon. members to citation 104(5) of Beauchesne's fourth edition which determines the Chair's responsibility in such instances.

I also pointed out that even where a prima facie case of privilege exists it does not necessarily follow that a subsequent motion will be accepted by the Chair. I further stated yesterday that the matter of privilege put before the Chair related to the propriety of action or words of the Minister of Justice. The closing words of my ruling were as follows:

I can come to no other conclusion than that the motion as drafted now cannot be accepted by the Chair because it is too general in terms and, according to precedents, does not specify the charge levelled against the minister.

I also referred hon. members to Bourinot's fourth edition, at page 162, as follows:

A reference to a committee is no doubt the proper procedure in all cases in which there are reasonable doubts as to the facts of the course that should be pursued, especially when it is necessary to examine precedents or witnesses.

From the earliest days of our parliamentary history, the only motion that has been moved and accepted in such cases is one to refer the matter of the alleged breach of privilege of this house to the Committee of Privileges and Elections. I believe that in 100 years of Canadian parliamentary practice, there has never been an exception to this procedure.

Following my disallowance of the motion made by the hon. member for Calgary North, the following motions were submitted:

Mr. Nielsen, seconded by Mr. Harkness, moved:

That the Minister of Justice do resign.

Another motion came from the hon. member for Winnipeg South Centre (Mr. Churchill), seconded by the hon. member for Ontario (Mr. Starr), in the following terms:

That the Prime Minister immediately call for the resignation of the Minister of Justice on the basis of the improper conduct of the minister in the making of improper accusations against the right hon. Leader of the Opposition (Mr. Diefenbaker and all privy councillors in the former government.

Later on, the hon. member for Yukon (Mr. Nielsen), seconded by the hon. member for Carleton (Mr. Bell), moved:

That this house call upon the Minister of Justice to substantiate the charges and allegations he has made against the Leader of the Official Opposition and members of the former Conservative government now members of this house.

In considering all these motions, one must note that they are all couched in language that assumes that the Minister of Justice is in fact guilty of improper conduct, or of the use of improper language, even before the allegations have been established, and it is I submit no answer to this difficulty to argue that the Chair has declared there is a prima facie case of privilege.

Whether there is or is not an actual breach of privilege, beyond the appearance of things, beyond the prima facie aspect of the case, is not, of course, for the Chair to decide. In other words, the motions assume as a conclusion that an actual breach of privilege has been established. With respect, I submit that this type of motion cannot be moved consequent upon a question of privilege. As I said yesterday when I commented on the motion of the hon. member for Yukon, these are substantive motions which cannot be accepted under the guise of a question of privilege.

Hon. members will recall that during the course of my observations yesterday, I drew the attention of the house to a decision of Mr. Speaker Michener on questions of privilege, on June 19, 1959, and it seems to me the proposed motions are invalid also on the basis of the opinion expressed by Mr. Speaker Michener at that time.

At page 583 of volume 105 of the *Journals* for 1959 Mr. Speaker Michener is recorded as follows:

Members of the House of Commons, like all other citizens, have the right to be regarded as innocent