

*Privilege—Mr. Rodriguez*

House. However, the contents of the motion which has been put to me raise at least two, and perhaps more, serious problems of both a procedural and a substantive nature.

The first is that the terms of the motion seek a referral to the Standing Committee on Privileges and Elections, not just of the possibility of electronic surveillance and of the statements made by Mr. Hart, who is alleged to have carried out the electronic surveillance, but also of the statements of the Solicitor General (Mr. Blais). That calls into play, it seems to me, not only a procedural but a substantive problem, because indeed in the course of his remarks the hon. member for Nickel Belt indicated that he accepts the statements of the Solicitor General as a member of the House and a minister of the Crown, and yesterday the Solicitor General in his intervention reiterated that those statements were made by him after a careful investigation.

Based on the precedent of the recent and very thorough analysis which was done of the procedure by which any misleading statement of a minister would have to be questioned but clearly not by way of a question of privilege, to permit a question of privilege on statements of a minister, at least calls them into question.

It seems to me totally inconsistent to say, on the one hand, that statements have been accepted and, on the other hand, that they should be referred to the Standing Committee on Privileges and Elections. Furthermore, it would be a dangerous precedent to accept, as part of a question of privilege, the referral of a minister's statement to the committee because it would go directly contrary to the ruling which I just made in respect of recent attempts to deal with any suggested misleading of the House by any minister. That would have to be done by a substantive motion, or it may be the subject matter of a debate.

Therefore, it seems to me that it would be contrary to our practices and precedents to permit the inclusion of the reference to a minister's statement. I do not say for one minute that if the matter does go to a committee ultimately, the minister would not want to make some contribution, but I think the formal reference of the minister's statement seems to call into question those very statements which have not been called into question but have been accepted by the hon. member. If there was any doubt about that reasoning on my part, one would have to examine the arguments presented yesterday because a good many of those who participated in the discussion yesterday—although the hon. member for Nickel Belt and others accepted the Solicitor General's statements—have called those very statements into question. I think we would have to guard that procedure very carefully.

May I say that I am also concerned about the assumption which seems to be made in the motion about the confidentiality of sources and of communications to members. That is a very important aspect of the life of members of the House of Commons, but the fact that it is contained in the motion seems to me to presume upon something which is not supported by our precedents and, at the very least, is presently under review in some ways in our courts and in other legislatures, and is far

from an established right or privilege of members. That seems to be under question. I do not consider that as fatal a defect as I do the inclusion of the statements of a minister, but I do have that concern.

May I also add that there is other language in the motion which may be simply superfluous, although it might not be procedurally out of order. I refer to expressions such as "the whole truth" and "the matter being publicized" as a direction to the committee, and "this breach of privilege" in the motion. It seems to me that the latter expression "this breach of privilege" prejudices entirely the question which is to be put to the House. Again I say that this might simply be superfluous language.

The basic procedural difficulty I have is the inclusion of the reference of the minister's statement, and I hope the hon. member will examine the reasons I have given today and rethink his motion, because I want to stress that this decision today should not be taken as a final decision in respect of a matter of this sort. It is entirely without prejudice to the hon. member to endeavour, after examining precedents and the reasons I have endeavoured to put forward today, to rephrase his motion in such a way as may—I have to say "may" because I cannot prejudge the issue—receive the favourable decision of the Chair. But I do not want it to be taken that by setting this matter aside, because it is a contest of fact or an argument between a member and the minister, that is not a question of privilege and should not be dealt with in this way. Therefore, it has to be accepted that the minister has made a statement to the House and, that statement having been accepted, it does not remain in contest, and even if it did, it could not be part of a question of privilege. That is a very substantial part of our procedure, not simply a matter of form.

However, some questions remain that are of fundamental importance to the House, because I think it is possible to visualize events which have taken place which, although entirely consistent with the assurances given by the Solicitor General to the House, and entirely consistent with the investigation which he undertook and with the results of the RCMP investigation, may still leave questions to which the House may want to address itself.

I think I should stress here that the role of the Chair, if there are questions about the surveillance of a member, is very difficult. Perhaps the surveillance did take place in the orbit which is classically the privilege of a member, but the possibility of some connection with official surveillance of any sort seems to me to be very close to questions with which the House would want to come to grips, and it is not the function of the Chair to prevent the House from attempting to deliberate on matters which come reasonably close to being questions of substance.

Having explained the procedural difficulties and, in some ways, the substantive difficulties for which I have to set aside this motion, let me say that I do so without prejudicing the right of the hon. member to consult on the motion, to rethink it, and to try to rephrase it in such a way that may—again I say "may"—receive the favourable decision of the Chair and