

*Privilege—Mr. Baldwin*

language was used—and I am not saying this because I have not heard all the arguments and I have not examined them, but it may be difficult to fit them into the specific and classic definition of privilege—if that is so, it may be that hon. members would want to think about the possibility of saying we can obviate the decision on privilege by simply agreeing that the matter ought to be referred to the committee in any case.

If that does become possible during the discussion, or during the time that I have it under reserve, it is something on which I would want to take some guidance from the House before coming to a final decision. If there is no consent and no accord in that respect, then of course I will carry on and make the basic decision that it is my responsibility to make on the matter of privilege.

**Mr. Basford:** Mr. Speaker, I appreciate your position of endeavouring to make a suggestion that might be helpful. Obviously it has to be considered carefully. However, as I understand the suggestion, I would have some difficulty with it.

As Your Honour pointed out, there are several aspects to this whole matter. One is the obvious concern of the hon. member for Peace River (Mr. Baldwin), a concern which I suspect is shared by all members of the House, including myself, as to the wording of the Official Secrets Act and its application. That is a matter of substance, not of privilege.

There is the second matter, the question of the Crown's case, which is related to a number of questions the hon. member has asked me and for which I, as Minister of Justice, obviously as a political officer of the House am accountable to the House. It seems to me there is a procedure where the Crown, through its Minister of Justice, is accountable for the conduct of the case, is accountable to the House in the daily question period or in the examination of the departmental estimates in the Standing Committee on Justice and Legal Affairs.

During the handling of estimates, as the chief law officer, I am subject to examination by any member who wishes to come to the committee, on how I or my officials are conducting a Crown's case.

**An hon. Member:** You do not have to answer.

**Mr. Basford:** The hon. member yells out that I do not have to answer. That, as Your Honour knows, is a rule. The fact is that I have never been asked any question in the Justice and Legal Affairs Committee, so the question of whether or not I would answer has never arisen.

The third aspect is the question of privilege, or the alleged question of privilege, which arises, or allegedly arises, out of the remarks of the Acting Chief Sessions Judge in Quebec. I suggest, with respect, it is that latter part on which we have to concentrate.

I might go back to the question of Your Honour's suggestion of referring the whole matter to some committee. I recall the hon. member for Peace River suggesting the other day that

[Mr. Speaker.]

that would be desirable so that the committee could call the judge before it. With the greatest of respect, that is something that parliament should undertake only under the most serious of circumstances.

I want to make very sure what my role is in this debate. I am not here to defend a judge. These statements, or alleged statements, were made by a provincially appointed judge. Even if he were a federally appointed judge, he is not accountable to me for his remarks, nor am I accountable to parliament for his remarks.

It would be unwise, and in fact dangerous, if one is going to consider the independence both of parliament and the judiciary for parliament to pass motions summoning judges, particularly provincially appointed judges, before our committee. If the judiciary has committed an error or a wrong, this parliament has set up through amendments to the Judges Act, through the Judicial Council of Canada, a mechanism for dealing with those types of complaints about members of the judiciary. In the province of Quebec there is a similar kind of mechanism for dealing with complaints about the conduct, behaviour or actions of the judiciary.

As I made very clear in this House a while ago in my statement relative to the hon. member for Leeds (Mr. Cossitt), it is up to this parliament and its members to determine our rights, privileges, and freedoms. Equally, the independence of this institution and the independence of the judiciary, from each other, depend on our not being called to court for them to determine our privileges, and on judges not being called before this court to determine their rights and privileges.

• (1532)

Therefore, while Your Honour's suggestion to refer the whole matter to a committee is, I know, made in a spirit of helpfulness, I resist it because I think that would create a very dangerous precedent.

On the substance of whether the remarks constitute a question of privilege or a prima facie case of privilege, the hon. member was not able to table the remarks. I would be happy, although in this matter I have no official capacity whatsoever, to table, if the hon. member will supply me with a copy of it, a copy of his letter to me of June 1 to which are attached what purports to be a transcript of the judge's remarks. I will be quite happy to accommodate the hon. member in tabling it if he will give me the copy to table. In no way can I authenticate the correctness of the transcript or the translation, but I am happy to accommodate the hon. member in that way.

Whether the statement which has been given to Your Honour is a wise statement or an unwise statement is a question which I am not going to debate. One could argue that it may not be a wise statement, and that a judge should not have made comments on a matter which really is highly political. However, we are not here to debate whether the statement was wise. We are here to debate whether it constitutes a question of privilege.

I think I will make just three short points. First, whether the statement is well founded or not, it clearly acknowledges in the