

Privilege—Mr. Lawrence

surely no body but this House can have jurisdiction where matters of privilege are involved if, in fact, privilege is found.

The second thing is that in my preliminary analysis the proceeding which is the parallel inquiry about which concern might be expressed if the sub judge convention were to apply is not in fact a trial. It is not a civil or criminal court. There is no verdict to be given, and therefore no prejudice, it seems to me, could result from discussion in this House parallel to the discussion taking place before that royal commission. Therefore, on the face of it, because it would involve privilege, which is in the jurisdiction only of this House, and because no prejudice would be apparent, it would seem that the sub judge convention ought not to be applied. However, that was not argued, and I would like to hear argument, if there is any to be made, contrary to my preliminary analysis.

I am also concerned that although the sub judge convention may not have application in this forum, the wisdom of avoiding parallel inquiry is something which was not argued. When we draw upon the testimony before an inquiry, at what stage is it appropriate to draw upon that testimony to proceed with another inquiry here? That testimony can be cross-examined. It may be contradicted. On the other hand, surely this House is not about to wait patiently for the conclusion of the proceedings before the McDonald inquiry before it takes steps of its own, particularly if the House feels that it has been treated with contempt and that a matter of privilege is involved. That is an issue upon which I would like to hear further discussion.

Furthermore, the matter of ministerial responsibility is a question which gives me some concern, and while I recognize that ministerial responsibility is a constitutional doctrine, again I say my preliminary analysis is that it does not have procedural significance as far as the Chair is concerned and, in any case, does not override privilege even if it did have some procedural significance. Nevertheless, it has been quite a generally accepted extension of that doctrine of ministerial responsibility that when serious dereliction of duty by an official of a minister takes place, the minister is expected either to assume responsibility for that in the House or, alternatively, to advise the House of the appropriate disciplinary measure which has been taken.

I say to the House that while I do not think there is procedural significance to the doctrine of ministerial responsibility, it appears that we are now embarking on a different course in having the House, through a question of privilege, reach around the minister and examine directly the conduct of an official. Both of those—parallel inquiries and taking that step in terms of ministerial responsibility—it seems to me are probably not procedural matters but are risks the House is taking. It may be that they are risks which will be examined in debate, and the House will take decisions. They are substantive matters to be considered by the House and not properly procedural matters for the Chair. Those are two concerns I want to leave over for further argument. I do not expect hon.

[Mr. Speaker.]

members to be prepared to argue without having time to put their thoughts together.

The final concern I want to leave with the House—and I freely say that it would not be looked upon by me in any case as a fatal concern—is the form of the motion. The customary form of a motion on a question of privilege is very precise and explicit, in that the matter is referred to the Standing Committee on Privileges and Elections.

The form of the motion put forward by the hon. member, on the one hand, seems to make a declaration which is in fact a finding that contempt has taken place. On the other hand, it calls for an inquiry to be made in the committee. I have looked at the form of the motion, and it is a departure from previous motions of privilege which have been accepted, but I am far from satisfied that it is out of order. I am not at all convinced that it is out of order and, frankly, I think if there is a procedural irregularity regarding the motion, I would not want to stop an important question like this on that ground. However, if the motion is found to be procedurally irregular or a departure from our regular procedure, I would be sympathetic to an amendment or an alteration to the motion, if we were to carry the matter forward.

I have not, and I do not think I should go on to deal with the basic question of whether the question of privilege has been decided finally by me in favour of the hon. member for Northumberland-Durham. I will not do that until I have heard other argument.

These other considerations having been set aside, and in line with the precedents I have cited I think most members of the House would find it very difficult to accept that this House is powerless to do anything about a deliberate act to deceive either a minister or, through the minister, the House. However, the final determination will be after argument on those other three points.

I do not want to hear any further argument on the points I have set aside, but I would be grateful if the House would direct itself, at a time which is convenient, to further argument on the questions of whether a parallel inquiry should take place and whether the doctrine of ministerial responsibility in any way affects this question of privilege. I have said already—and I want hon. members to look at my remarks—that I do not think that those are procedural questions, but I would like argument on them nevertheless, as well as on whether the form of the motion should be altered in order to keep it within our practices, if we set these other objections aside.

Mr. Lang: Mr. Speaker, thank you very much for your indication as to how we will proceed. I will be conveying that immediately to the Deputy Prime Minister (Mr. MacEachen) who, no doubt, in the usual way will have discussions with the other House leaders in order to determine the convenient time to which you refer.