

Questions of Privilege

I want to refer you further, Mr. Speaker, to *Erskine May's Parliamentary Practice*. In the definition in Chapter 5, page 70 of Volume 20 of *Erskine May*, it gives the following definition of what constitutes privilege:

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament—

The particular privileges of the Commons have been defined as: "The sum of the fundamental rights of the House and of its individual Members as against the prerogatives of the Crown—

Let us not forget that the person about whom we are talking in terms of interfering with a Member of Parliament is not just a citizen attempting to interfere with Parliament. That of course would be an offence in itself, but the fact that an employee representing the Crown, the Solicitor General of Canada (Mr. Kelleher), has made this attempt creates a further offence, according to the definition in *Erskine May*.

I would submit further that in other definitions of what constitutes contempt against this House, contempt has been defined as an offence against the House or an insult or injury against the House, which is, indeed, or can be constituted as contempt. It further says in *Maingot* for instance, that contempt is whatever the House deems to be contempt.

I would submit that any kind of interference or attempted interference with a Member of Parliament attempting to have access to a constituent is indeed an action that I believe would warrant your very thorough investigation. I know the Hon. Member has indicated that he feels that this affects his privileges in this House, but I would submit that it indeed affects the privileges or could affect the privileges of all Hon. Members and of Parliament itself.

Mr. Ian Waddell (Vancouver—Kingsway): Mr. Speaker, speaking on behalf of the New Democratic Party, I think this is a very serious allegation that has been made by the Hon. Member for York South—Weston (Mr. Nunziata) who is the Solicitor General critic for his Party. Like any critic, indeed any Member, he should have untrammelled access to his constituents, and especially in the role of Solicitor General's critic to people who are imprisoned, without anybody listening in. He claims in the House today that indeed people did listen in, one way or the other.

I think this is a matter, therefore, that should be referred to the committee because that is what the committee is for. Rather than waiting for the Solicitor General (Mr. Kelleher) to reply, or waiting for further explanations, surely we could refer these matters to the committee and let the committee look into them. That seems to me to be what the committee is for. It is a serious allegation and it should be referred to the committee as a *prima facie* case of privilege.

Hon. Herb Gray (Windsor West): Mr. Speaker, I rise to support the request made by the Hon. Member for York South—Weston (Mr. Nunziata). If you find that there is a *prima facie* case of breach of privilege on the grounds that he has stated, he has made it very clear that he will be prepared

to move the appropriate and required motion referring the matter to the Standing Committee on Elections and Privileges.

I have not had the opportunity to research all possible precedents in this regard but I do notice that on page 22 of *Beauchesne's Fifth Edition*, Citation No. 69 reads:

A question of alleged wiretapping of telephones was referred to the Standing Committee on Privileges and Elections in 1972, but the Member making the allegation refused to appear before the Committee and therefore no evidence of wrongdoing was discovered.

The citation is based on *Journals*, May 24, 1972, pages 321 to 326.

I would say that what we have here may well be very similar to what led the Speaker of the day to refer the question of alleged wiretapping of telephones to the Committee on Elections and Privileges. We have here what I submit is an improper interception of a telephone conversation between a Member of Parliament and a constituent. I do not think it really matters whether the interception of the conversation was by what would amount to wiretapping or simple listening in by a guard or other official. In either case, I would say that there was an improper interference with the rights of communication between a Member of Parliament and a constituent, a right which I think is reinforced by the fact that the Hon. Member is the Official Opposition critic for the Department of the Solicitor General and in that capacity, his executive assistant was talking to the constituent in question.

It would seem to me that there are actually two likely breaches of privilege here. One arises out of the interception of the telephone conversation, but I would submit that there is a second one and that is the alleged and apparent retribution by officials against the Hon. Member's constituent for raising the concerns and question with the Hon. Member. The Hon. Member for York South—Weston has reported to the House and to you, Sir, that after the conversation in question the constituent was removed as head of the prisoners' committee at Joyceville, was sent to a maximum security prison and was put into what used to be called solitary confinement. If this is the case, I suggest that it is a breach of an Hon. Member's privileges to take action against a citizen who was using the rights of access to an Hon. Member, which every citizen including someone incarcerated in a penal institution ought to have. I submit we have two breaches of privilege. One is the improper interception of a telephone conversation. The other is the retribution by officials of the Solicitor General's department against the Member's constituent for raising the concerns in question.

● (1520)

Therefore I submit, not only because of the comments I have made but because of the other worthy comments of the Hon. Member for York South—Weston and the Hon. Member for Glengarry—Prescott—Russell (Mr. Boudria), that it is well open to you, Sir, to find a *prima facie* case of breach of privilege.