

Following my disallowance of the motion made by the honourable 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 honourable Member for Winnipeg South Centre (Mr. Churchill), seconded by the honourable 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 Honourable Leader of the Opposition (Mr. Diefenbaker) and all Privy Councillors in the former government."

Later on, the honourable Member for Yukon (Mr. Nielsen), seconded by the honourable 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 honourable 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 honourable Member for Yukon, these are substantive motions which cannot be accepted under the guise of a question of privilege.

Honourable 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 until they are found guilty, and like other citizens they must be charged before they are obliged to stand trial in the courts. Parliament is a court with respect to its own privileges and dignity and the privileges of its Members. The question arises whether the House, in the exercise of its judicial functions with respect to the conduct of any of its Members, should deprive such member of any of the safeguards and privileges which every man enjoys in any court of the land."

Further, at page 584, and I repeat what I quoted yesterday: "In my view, simple justice requires that no honourable Member should have to submit to investigation of his conduct by the House or a committee until he has been charged with an offence."

In the case before us no honourable Member has taken the responsibility of making a specific charge against the Minister. I repeat that in my view the responsibility devolving upon the Speaker under our practice in a case of alleged privilege is to ascertain whether there has been a *prima facie* breach of the privileges of the House, or of any Member thereof.