

Administration of Justice

102 of Beauchesne, that "a question of privilege ought rarely to come up in Parliament. It should be dealt with by a motion giving the house power to impose a reparation or apply a remedy."

This has been the traditional course. I have observed on previous occasions that when a question of privilege has been raised and when the house has been unable to formulate a remedy or a motion for the consideration of the house, the Speaker has terminated the debate. That has been the position. There are certain obvious traditional methods that could be applied in this case, if hon. members sought to do so, in the way of a motion. This has not been done and I understand the reasons and agree with them. For example, the traditional course that has been employed is to send a matter of this kind to the standing committee on privileges and elections.

Mr. Nielsen: After charges have been made.

Mr. MacEachen: I could quote precedents of cases and subject matters that have been sent to the standing committee on privileges and elections when no charges were asserted. If you look at the celebrated case before Mr. Speaker Michener when the conduct of the hon. member for Peel was brought into question, that is the most definitive statement on privilege that has ever been made by a Speaker in this chamber. Mr. Speaker Michener took several days to formulate his decision. In that case he took the view that he would not send the matter of conduct of the hon. member for Peel to the committee on Privileges and Elections in the absence of specific charges. He also stated that there were precedents in the history of this parliament when cases were sent to the committee without the formulation of specific charges. So that is a course that could be employed. Why is it not being employed? It is not being employed because I believe it would be a futile course. Yesterday I was deeply moved by the speech made by the hon. member for Victoria-Carleton (Mr. Flemming), who rarely intervenes in debate, but when he does he does it effectively, and he did so last night.

I appreciated his point of view. He understands that the situation which is facing the house cannot be resolved by sending this matter to a parliamentary committee. The hon. member for Burnaby-Coquitlam (Mr. Douglas) took that view, and I think hon. members obviously understand that this question cannot be resolved in that way. The

course which is the traditional way of solving such a problem, applying a remedy or imposing a reparation, referred to in Beauchesne, has not been employed. We understand the reason.

Mr. Nielsen: Mr. Speaker, would the minister permit a question? Is it not also traditional that a member of this house who makes charges must substantiate those charges or take the only other alternate course?

Mr. Lambert: Or specify them.

Mr. MacEachen: I understand that it could be moved by any hon. member that this subject matter be sent to the standing committee on privileges and elections. That could be done. It is a motion that would have to be held to be in order. But it is not being done for obvious reasons, and I agree with those reasons, because sending this matter to a standing committee of this house will not resolve the important question raised by the hon. member for Victoria-Carleton and the hon. member for Calgary North (Mr. Harkness). For both these hon. gentlemen I have a very great respect and I respect their moral position.

The government is suggesting that a judicial inquiry be established under a judge. We have employed this remedy, imposed this reparation, in previous cases. It has been advocated by hon. members in all parties confronted with a question of personal integrity or civil liberties that the proper way to deal with such matters is through a judicial inquiry. The hon. member who is the Whip of the official opposition has stated that he will not proceed to other business. I suggest to him and to all hon. members that the only way in which this matter can properly be resolved is to refer it to a judicial inquiry.

Mr. Churchill: What matter?

Mr. Starr: Mr. Speaker, would the minister permit a question?

Mr. MacEachen: The Prime Minister (Mr. Pearson) has read a letter from the Minister of Justice (Mr. Cardin)—

Some hon. Members: Oh, oh.

Mr. MacEachen:—in which the Minister of Justice stated—

Mr. Horner (Acadia): He did not read the one letter he should have read.

Mr. MacEachen:—that he wanted his allegations—

Mr. Nielsen: Accusations.