

*Privilege—Mr. Jelinek*

● (1510)

Such a privilege confers grave responsibilities on those who are protected by it. By that I mean specifically the Hon. Members of this place. The consequences of its abuse can be terrible. Innocent people could be slandered with no redress available to them. Reputations could be destroyed on the basis of false rumour. All Hon. Members are conscious of the care they must exercise in availing themselves of their absolute privilege of freedom of speech. That is why there are long-standing practices and traditions observed in this House to counter the potential for abuse.

The privileges of a Member are violated by any action which might impede him or her in the fulfillment of his or her duties and functions. It is obvious that the unjust damaging of a reputation could constitute such an impediment. The normal course of a Member who felt himself or herself to be defamed would be the same as that available to any other citizen, recourse to the courts under the laws of defamation with the possibility of damages to substitute for the harm that might be done. However, should the alleged defamation take place on the floor of the House, this recourse is not available.

Hon. Members will remember that I commented some time ago that originally when the absolute privilege was extended to Members of Parliament, as applied to the British House of Commons in a different age when things said within that House would probably not be heard throughout the length and breadth of the kingdom, circumstances were very different. Today, as a consequence of television and electronic broadcasting, anything said in this place is said on the street right across this country, and that has to be borne in mind. In these circumstances a Member can be expected to claim a violation of his or her privileges and to argue the case very strongly. I point out that if a statement is made here or an innuendo is passed in here no Member can go to court for correction or damages, even though that statement is said outside this place the moment it is uttered here.

[*Translation*]

The Chair has a serious responsibility in such cases. The Chair of course does not resolve the question, only the House can do that. However, on the basis of the evidence available, the Chair must determine whether the question has priority over all other business. When the Chair so rules, a motion is moved and usually the question is referred to the Standing Committee on Elections, Privileges and Procedure. The Chair has a crucial role to play in this respect.

[*English*]

In the case before us certain questions were asked which, in the view of the Hon. Minister, conveyed grave implications against his integrity and were, therefore, damaging to his reputation. That is the position which the Minister took. I have carefully examined the questions, together with the interventions which took place following the Hon. Minister's statement, and I confess to be very troubled as a result.

Perhaps, as has been argued, the questions did not directly violate the practice of this House concerning the making of charges and the levelling of accusations. I remind Hon.

Members that I listened carefully to the questions and I did allow them. Nevertheless, I am sure all Hon. Members can appreciate the Hon. Minister's concern.

The House heard the Minister's statement. It is a long-standing tradition of this House that an Hon. Member's word is accepted without question. Given all the circumstances in this case, I am sure that the Minister's capacity to function as a Minister and a Member of this House is in no way impaired. I point out to Hon. Members that this is the real issue of privilege, although there are obviously other matters that surround the particular facts in this case, but the Chair has to look very carefully at the exact point of privilege.

With regard to the questions of which the Minister complained, legitimate though they may have been, I have already confessed to being troubled by their content. I would urge all Hon. Members to take the greatest care when framing such questions. Questions concerning conflict of interest guidelines are, of course, legitimate. Members are entitled to use facts they have been able to obtain and verify as the basis for such questions.

I would remind the House, however, that a direct charge or accusation against a Member may be made only by way of a substantive motion of which the usual notice is required. This is another long-standing practice designed to avoid judgment by innuendo and to prevent the overextended use of our absolute privilege of freedom of speech. One of my distinguished predecessors, Mr. Speaker Michener, in a ruling of June 19, 1959, which has frequently been quoted in this House stated that this is a practice demanded by simple justice.

I find therefore, again under the circumstances and after the most serious consideration of the evidence before me, that this matter should not take precedence over all other business. I would urge Hon. Members to take great care in this Chamber with respect to the honour of each other.

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## PRIVILEGE

### ALLEGED IMPLICATION OF MINISTER'S ANSWER

**Mr. John R. Rodriguez (Nickel Belt):** Mr. Speaker, I rise on a question of privilege. It arises from an answer given by the Solicitor General (Mr. Kelleher) to a member of the Opposition with respect to Mr. Warren Hart and the awarding of an *ex gratia* payment of \$56,000 to Mr. Hart.

The Solicitor General in his response said that the \$56,000 was awarded to Mr. Hart because "for years he did a laudable job" for the Government of Canada. As part of that laudable job, we know from signed testimony by Mr. Warren Hart that he spied on two MPs, myself and the Hon. Member for Notre-Dame-de-Grâce—Lachine East (Mr. Allmand) who was the Solicitor General at that time. Mr. Warren Hart also in his sworn testimony stated that he was in the employ of the RCMP security forces. In fact he was spying on an M P and on his own boss in the RCMP.