

*Alleged Leak re New Airport Site*

for the hon. member to move the motion. In any event I assumed that the hour's notice would have expired rather quickly and the motion could have been put at a later hour in the afternoon and taking this aspect and other aspects into consideration I felt that the hon. member should be heard then.

Hon. members who are interested in the procedural aspects of this matter raised by the hon. member will be reassured to know that the Chair has not taken this matter lightly indeed, and that many hours have been devoted since Friday to the consideration of the many complex aspects of parliamentary law and procedure as they apply to privilege. It is on the strength of this analysis, as well as on the basis of opinions expressed during the discussion in the house on Friday, and of course today, that I am prepared to make a ruling now.

I should say once again, as I indicated earlier today, that my ruling deals only with the technical and procedural aspects of the matter and not in any way with the merits of the situation or the allegations. As the hon. member for York South (Mr. Lewis) stated earlier today, the question before the house is not whether there were leaks—as he called them—or not. I add that the question is not whether or not in fact there was ministerial impropriety but whether the situation or allegations should be considered as a matter of privilege and be referred to the Standing Committee on Privileges and Elections.

The President of the Privy Council (Mr. Macdonald) has given the standard definition of privilege as defined in May's 17th edition at page 42. Later on the learned author adds:

"The privileges of parliament are rights which are 'absolutely necessary for the due execution of its powers'. They are enjoyed by individual members, because the house cannot perform its functions without unimpeded use of the services of its members; and by each house for the protection of its members and the vindication of its own authority and dignity.

These definitions are very general; it is perhaps on purpose that a clear and logical definition has never been given of parliamentary privilege. However, authorities on the subject argue that privilege includes freedom of speech, in the sense of immunity against suits in defamation; freedom from arrest in certain very limited circumstances; exemption from court duty as a witness or as a juror; protection against undue influence, and reflection on members.

There are also the collective privileges of the house dealing with the control of its proceedings and publications; the calling and

protection of witnesses; reflections and indignities affecting the house as a body or as an institution; the right to set up its own rules, and the traditional privileges claimed by the Speaker on behalf of the house at the opening of parliament.

It will be seen, thus, that parliamentary privilege is concerned with the special rights of members, not in their capacity as ministers or as party leaders, or whips, or parliamentary secretaries but strictly in their capacity as members. Allegations of misjudgment, or mismanagement, or maladministration on the part of a minister in the performance of his ministerial duties, does not come within the purview of parliamentary privilege.

A thorough study of each and every one of the cases of privilege raised in the British house during a period of 20 years shows clearly that each and every one of the cases reported deal with situations where members felt they had been adversely affected in their right to participate in parliamentary work without undue pressure, influence or accusations either from inside or outside the house. In fact nowhere in the British or Canadian precedents can there be found authority for the proposition that administrative "misdeeds" as such can be raised by way of questions of privilege.

The hon. member for Calgary North made reference to two cases in the British house and it may be helpful if I were to summarize these two precedents.

The first one relates to what is known as the Thomas case, and that summary is as follows:

In this case Mr. Thomas resigned from the government over a budget leak in the budget of 1936. There was no question of privilege, but on May 5, 1936, Mr. Chamberlain on behalf of the government moved:

That it is expedient that a tribunal be established for inquiring into an urgent matter of public importance, that is to say, whether, and if so, in what circumstances and by what persons, any unauthorized disclosure was made of information relating to the budget for the present year or any use made of any such information for the purposes of private gain.

This motion was made under the Tribunals of Inquiry (Evidence) Act, 1921, and after debate the motion was carried, and it is known that the tribunal was set up and made a report because of June 11, 1936, a further motion was made by the Prime Minister, Mr. Baldwin, as follows:

That the report of the tribunal appointed under the Tribunals of Inquiry (Evidence) Act, 1921, be now considered.