

*Privilege—Mr. Yewchuk*

and the manner in which they took place and their intentions, the House has been very careful in the past to avoid the immense difficulties which would obviously arise if the House were to constitute itself into one standing committee for the purpose of investigating proceedings which have taken place in another standing committee. Therefore, I would reject—except under the clearly established and narrow definitions to which we have referred in the past—that privilege, and in this respect it must almost constitute an obstruction of the ability of a member to function. Therefore, in respect to the events which took place in the standing committee and the disagreements between hon. members there, I find that they might constitute a number of matters of great concern, but they do not qualify as a question of privilege. Therefore, I will not review the events which took place there.

However, there is another aspect to this question, and that is the comments of a journalist who was described in the development of the question of privilege by the hon. member for Athabasca as an employee of the CTV network, Mr. Eric Malling. It has been suggested that he used the following language in editorializing on the performance of certain members of the official opposition in that committee:

The Conservative representation on the committee consisted of four doctors and a more shameless defence of the witness I have never seen. The way these doctors stick together you would think they had a sponge in a stiff—the entire lot of them.

I will perhaps reserve until later any comments I would want to make about the quality of that language or the quality of the reporting. The concern I have now is not so much with that as it is with the very difficult and very real problem which has been revealed by this question of privilege raised by the hon. member for Athabasca: that is, the balance which must be maintained between the right of individual members, or the membership of this House collectively, to punish contempt of this House or its members and to punish libels against its members or aspersions on their conduct and, on the other hand, the right of a journalist, or indeed of a citizen, to make public comment, to make criticism and in fact to express opinion which, obviously, is not subject to questions of truth but to the standards of opinion as to the performance of elected members.

There have been very few incidents in which journalists have been censured in this way in the history of the House of Commons, for the obvious reason that—and I think quite appropriately—it has always been decided, in situations of that sort, that where there was a doubt between the two rights which were enjoyed, that doubt ought always to be resolved in favour of the public, not only to criticize us but in fact to make comments about their political attitudes toward us.

● (1210)

There does seem to be a suggestion from time to time that privilege extends to us, as members of this House, a sort of special protection above and beyond that enjoyed by the ordinary citizen in this regard. I think it ought to be very clearly stated that this, in fact, is not the case. There is no historical support for that notion, nor do I see any reason why that should be the situation.

[Mr. Speaker.]

The protection in respect of public comment, made either by a citizen or a journalist, that is enjoyed by every private citizen is, and ought to be, more than adequate for the protection of members of this House in that regard. Rather than attempt to describe it in my own language, I find the comments of great interest and relevance in the report recently tabled of the select committee on parliamentary privilege in the United Kingdom. I will quote from pages 15 and 16 of that report; I think members will find it illuminating. Bearing in mind this is not an authoritative document by that parliament, but is really the result of a very serious and thorough study of the question of privilege—and I will in a moment be making reference to the study we are about to launch here at the instance of the hon. member for Peace River (Mr. Baldwin)—I will quote from paragraph 43. I think the language is interesting:

The proposal made in paragraph 42 is fully consistent with the principle which your committee believe to be right, that the House should be slow and reluctant to use its penal powers to stifle criticism or even abuse, whether of the machinery of the House, of a member or of a identifiable group of members, however strongly the criticism may be expressed and however unjustifiable it may appear. Your committee regard such criticism as the life blood of democracy. In their view the sensible politician expects and even welcomes criticism of this nature. Nonetheless, a point may be reached at which conduct ceases to be merely intemperate criticism and abuse and becomes or is liable to become an improper obstruction of the functions of parliament. For such cases, however rare, the penal powers must be preserved and the House must be prepared to exercise them.

The second quotation is from the following page, part way down paragraph 46, as follows:

In your committee's opinion it would be an indefensible abuse of power if a member could evade such a defence by invoking the penal jurisdiction of the House. The citizen has prima facie a right to make fair comment upon such activity of a member as is a matter of public interest; his right is even stronger to speak and publish the truth of a member's conduct. These rights should not in the normal way be defeated by the use of the penal jurisdiction of the House. The exceptions to this general principle are likely to be rare. But if the rights of a citizen, though enforceable in the courts of law, are so exercised as to be likely improperly to obstruct the member in the performance of his parliamentary duty, it must be within the power of the House to restrain him.

I adopt that reasoning, and I think I can simply state that however reprehensible and insulting the language used by the columnist or journalist referred to by the hon. member, and however unnecessary it may seem to be in order to report the proceedings of this House to stoop to that kind of language and comment, I cannot find in it a transgression of the rights, collectively or individually, to such an extent that the privilege procedures ought to be invoked by this House in order to censure the journalist.

Therefore, being in some doubt about that, I would resolve the doubt in favour of the public's right to criticize us and find, again, that no question of privilege exists. This is not to say there are not legitimate concerns raised by the hon. member for Athabasca. Often this is typical of the case in which the precedents and practices vis-à-vis a privilege as we know it, and which is confined, after all, to the very narrow term, while they do not fit the situation in which the House finds itself they nevertheless seem to be the only way out for a member to attempt to retaliate for this kind of language used in public.

Therefore, I say that the hon. member for Athabasca has, as other members have in the past, raised a question of very legitimate and serious concern. It arises, I might also