

1. The right of each House to be the sole judge of the lawfulness of its own proceedings;

2. The right implied to punish its own Members for their conduct in Parliament.

Further—

This point is not directly relevant to what I am submitting.

Further, there is the question,

3. What is the precise meaning of the term "proceedings in Parliament"?

In any event, it is the first two of these principles with which we are concerned here.

As of this moment it is true that no inquiry outside of Parliament has attempted to improperly examine any statements made in Parliament; nor has the Government yet published any Order in Council under the Inquiries Act. However, the Deputy Prime Minister (Mr. Nielsen) has made it clear that the Government intends to do so and, in so doing, intends to instruct such inquiry, quite improperly and in breach of the privilege of the House, I submit, to call into question statements made by Members in the House.

Freedom of speech in the proceedings of Parliament, however, is so fundamental to the constitutional role of the House of Commons, that so clearly expressed an intent, the intent to cause an appointee of the Crown to infringe upon the freedom of speech of the House of Commons, must surely in itself constitute a breach of privilege.

There is also another breach of privilege in the statement of the Deputy Prime Minister. His statement that the Government intends to appoint an inquiry outside of the House of Commons into the proceedings of the House of Commons and statements made therein is a clear threat to Members of the House, if they do their duty as they have been doing, and as they intend to. The Deputy Prime Minister has clearly attempted to intimidate Members from saying and doing in the House what they consider to be the proper thing. He has threatened them with what could turn out to be an external kangaroo court investigation of whatever they say in the House if it does not please him, the Prime Minister (Mr. Mulroney) and the Government.

Citation 71 of *Beauchesne's Fifth Edition* clearly states:

Direct threats which attempt to influence Members' actions in the House are undoubtedly breaches of privilege.

I conclude by saying that the Deputy Prime Minister has therefore clearly breached the privileges of the House on at least two scores. First, he has stated his intent to cause an appointee of the Crown to infringe on the freedom of speech of the House, a freedom so fundamental to the constitutional duty of Parliament that to express intent alone must surely constitute a breach of privilege. Second, his words constitute a clear threat in an attempt to intimidate Members in the exercise of their duties.

By way of conclusion I say that if the Deputy Prime Minister wants to have examined statements by Members made in this House, then surely it is an argument for our position that this can only be done in the House, or one of its

committees. If the Government wants to have an investigation sufficiently broad to examine what Members say in this House, then it should agree with our position—there should be an inquiry in one of the committees of this House.

I submit there has been a *prima facie* breach of privilege. If you agree, Mr. Speaker, I have an appropriate motion to move.

Hon. Ray Hnatyshyn (President of the Privy Council): Mr. Speaker, of course, I did not have any prior notice of this question of privilege. After hearing the House Leader of the Official Opposition (Mr. Gray) I am glad that I did not.

Mr. Gauthier: We will see how smart you are.

Mr. Hnatyshyn: There is absolutely no foundation with respect to the contention made by the Hon. Member that there is a question of privilege in this particular matter. If we were to follow the logic of the Hon. Member's submission, then any inquiry with respect to any item which is the subject matter of debate or questioning on the floor of the House of Commons would somehow be interpreted as being an infringement on the rights of Members with respect to the deliberations of the House of Commons. Clearly, this is not the case.

Indeed, if Your Honour were to search the record you would see that this is the paradox of the whole situation. During the course of Question Period, not only were members of the Opposition demanding information with respect to this matter, they were demanding—and I believe it was the Hon. Member for Gander—Twillingate (Mr. Baker), as well as other Members—that there be an independent inquiry with respect to this entire matter.

Mr. Gauthier: Parliamentary.

Mr. Hnatyshyn: Of course, it is now a parliamentary inquiry. I want to make what I have to say brief because I understand the political point that has been attempted to be made by the Hon. House Leader. Clearly, this is a political position put forward by the opposition Parties. I accept that as a political position. However, as far as being a question of privilege is concerned, I would like to make two points. The first, in a procedural sense, is that the whole question of a Code of Conduct for cabinet Ministers is not a matter which is normally within the scope of the activities of the House of Commons. It is extra-parliamentary, if I may put it that way. It is a matter within the prerogative of a Prime Minister—

Mr. Foster: That's a new theory.

Mr. Hnatyshyn:—just the same as it was with the predecessor to the present Prime Minister (Mr. Mulroney). There is adequate authority and precedent—

Mr. Foster: Name one!

Mr. Hnatyshyn:—with respect to this matter. If Hon. Members opposite will give me a few moments, and some notice, I would be glad to quote chapter and verse out of Bourinot's and out of—