

*Business of the House*

a charge must be implied from such observations, or of saying what the charge is. Instead, the supporters of the motion say in effect, "Let the committee see if there is anything of this kind with which the member could be charged".

It is true that the judge is critical of the conduct of the hon. member for Peel for influencing the appraiser, Mr. Clare; but his criticism falls more on Mr. Clare, whose professional duty it was to make a fair appraisal, for allowing himself to be influenced. He makes observations, too, about the hon. member's negotiations with the Minister of Transport.

If these observations or "affirmations", as they are styled in the notice of motion, are taken as fact and the worst construction is put on them, it would appear that the hon. member for Peel on behalf of his constituents unsuccessfully attempted to get more generous compensation for them from public funds for the lands which the crown had expropriated than they were warranted in receiving.

This summary does not do justice either way, but the judge's observations are more fully set out in the motion for all to read. If the learned judge, who as I have said had experience of parliament, felt that the conduct of the hon. member for Peel was contrary to the usages and dignity of parliament, would he not have said so?

Two important facts which appear from the judgment are, first, that the hon. member did not stand to gain or profit for himself by anything he did. On the contrary, the learned judge observed that his interest was only political. Second, no public funds were improperly paid out. The amount to be paid was determined by due process of law, in fact by the judge himself, and that is what the judgment was about.

However, the absence of formulation of a charge by the judge or by any member of the house does not absolve me from the responsibility of considering whether the reasons for judgment on their face imply conduct on the part of the hon. member which was contrary to the independence and dignity of the House of Commons of which he is a member; conduct, in other words, which was a breach of its privileges. No close precedent was cited and I have been unable to find any. The privileges of the house are stated in general terms in May, sixteenth edition, pages 42 and 43, as follows:

Parliamentary privilege is the sum of the peculiar rights enjoyed by each house collectively as a constituent part of the high court of parliament, and by members of each house individually, without which they could not discharge their functions, and which exceed those possessed by other

bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law. The distinctive mark of a privilege is its ancillary character. 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.

When any of these rights and immunities, both of the members, individually, and of the assembly in its collective capacity, which are known by the general name of privileges, are disregarded or attacked by any individual or authority, the offence is called a breach of privilege, and is punishable under the law of parliament. Each house also claims the right to punish—

And so on. I think I need not read more because the nature of privilege is generally understood. Examples of the sort of conduct which amount to a breach of privilege or which disqualify a member are the taking of an office of profit, as I have said; entering into contracts with the government which involve a payment or advantage to the member, in both of which cases there are elements of personal gain; conviction of treason or other felonious crimes.

The hon. member's conduct was not of that order. It may have been immature, as one hon. member characterized it, but putting the worst construction on it I do not find that it was the sort of conduct which the house has punished in the past. If there is some doubt in the matter I am clear that the benefit of the doubt should be given to the unaccused.

I should feel happier if this decision could be made by the house, but there seems to be no means by which that can be done except by the usual process of appeal from the ruling which I am now making.

In finding that a question of the privileges of the house is not *prima facie* involved in this motion, I am making a procedural decision the effect of which will not prevent the further discussion by the house of the matters in issue. The effect is to refuse precedence to this discussion but not to prevent it. No barrier is raised to the presentation of this matter under different circumstances on another occasion. For example, the subject matter could be brought before the house as an amendment to the next motion to go into supply. I should add, too, that the debate on the point of order on Wednesday and the discussion of the same matter on the estimates of the Minister of Transport were broad, and that there would be little left to be said if the motion itself were to be debated this morning.

Therefore the notice of motion standing in the name of the Leader of the Opposition will