

Privilege—Mr. Baldwin

Judge have transgressed the boundary line and, in my opinion, they constitute a threat or intimidation by their context.

Some hon. Members: Hear, hear!

Mr. Baldwin: The words "some members of parliament under the protection of parliamentary privilege" are certainly more than reasonable criticism. Then he said "have taken the liberty". I consider that to be an affront to myself and every member of parliament. If I had not considered, and if other hon. members who spoke in this debate the other day had not considered they were justified in doing that, they would not have done so. To be accused in doing so, in the original comments I made in this House on three occasions, that I am taking a liberty in discussing the matter in the way I did, constitutes to my mind far more than any judge is justified in bringing to my attention in the form of the statement which was issued by Judge Mayrand.

We must couple the following statements:

It is up to the citizens to place pressure on the legislators in order to change the law or on the cabinet in order to change its attitude . . .

—we cannot tolerate the remarks of Mr. Gerald Baldwin, M.P.—

Mr. Speaker, this is not an ordinary citizen speaking; this is a judge, with power to summon people before him, peremptorily, and to sentence them on the basis of an allegation of contempt. This is a person who has, as a member of the judiciary, whose independence I and all members of this House will always respect, the power to call myself or the right hon. member for Prince Albert (Mr. Diefenbaker), or the Leader of the Opposition (Mr. Clark), or any member before him on a question of laying a charge, punishable by imprisonment or otherwise, of contempt. I underline the wording, "We cannot tolerate the remarks of Mr. Baldwin," coupled with what has been said before, coupled with a subsequent statement, we advise him—

● (1512)

—and he means we are telling him; cautioning him—

—to content himself with doing his own work, that is with the drafting of a better Official Secrets Act, if he feels the present one is unjust and abusive.

I have already commented on that. I have been trying to do it for four years with a notable lack of success so far.

Miss MacDonald: Wrong government.

Mr. Baldwin: I resent the right of any judge to tell me that I have no right to be critical of the way in which a trial is conducted when in doing so there was no mention of the trial judge, no mention of his name. What I was doing was what any member of this House would do and has done, saying trials of this nature and character take us far beyond what is permissible in this particular day and age.

Some hon. Members: Hear, hear!

Mr. Baldwin: There is an obligation upon us, by calling attention to trials of this nature, to seek corrective action. If

[Mr. Baldwin.]

we did not do that, I would not be doing my job as a member, nor would other members of this House.

I have looked at the possibilities of what this House can do. I have looked at some of the precedents, and I have looked at the hearings of the committee which Your Honour has the privilege to chair, that is, the committee on rights and immunities. We have dealt with this issue, particularly in a report made on April 29, 1977. This House received a report from the special committee, which says in part:

3. The freedom of speech accorded to members of parliament is a fundamental right without which they would be hampered in the performance of their duties. It permits them to speak in the House without inhibition, to refer to any matter or express any opinion as they see fit, and to say what they feel needs to be said in the furtherance of the national interest and the aspirations of their constituents.

We were at the time dealing with the question of sub judice, but the words which were uttered by that committee and tabled in this House have not been challenged. I submit to you, Mr. Speaker, and to members of this House, that these words must be taken to represent the considered opinion of all members of this House and that they are wise and essential words in the kind of world in which we live today.

Later on, dealing with the question of the convention of sub judice and privilege, the committee went on to say:

Your committee believes, however, that any modification of the practice—

And that is the practice of sub judice and privilege.

—should be in the direction of greater flexibility rather than stricter application. It is not possible to determine whether or to what extent comments made in parliament might affect the outcome of a trial or an inquiry.

It went on to say the option should be left with the Chair.

We have also had some illustrations of questions of privilege in this House. One of the very earliest ones deals with a case in 1879, when Mr. Alexander Mackenzie stated in the House that one of his colleagues had been called "a cheat and a swindler" by a certain John A. Macdonell who came into the House to profess those words. The culprit was expelled from the House by the Sergeant-at-Arms while still insisting that L. S. Huntington was a cheat and a swindler. On February 16, 1880, Macdonell was again summoned to the Bar. He appeared on the day ordered and apologized, but only to the House and not to Huntington. He was nonetheless discharged after a motion was passed declaring his actions a breach of the privileges of the House.

There is another interesting case which has some similarity. In 1874 the House ordered that H. J. Clarke, the Attorney General of Manitoba, be called to the Bar of the House to answer some questions. Clarke was seeking to execute a warrant for the arrest of Louis Riel for the murder of Thomas Scott. As Riel had been recently elected to the House as the hon. member for Provencher, the warrant was considered by some as a contempt of parliament.

There are other cases. However, I think it would be wise to say that in issues of this kind we should consider each one on its own particular merits, to examine to what extent, and that is an issue upon which you, Your Honour, as guardian and as the repository of the privileges of this House may be called