

Administration of Justice

powers of the committee of the whole, and what would be gained by moving from the house itself to the committee of the whole? I suggest nothing at all can be gained in this way. The motion as presented suggests that the committee of the whole consider this matter and that the way to do it is the way in which the hon. member for Carleton would want to do it. I should like to refer to citation 230 (1) of Beauchesne which says:

The ordinary function of a Committee of the Whole House is deliberation, not enquiry.

For this reason I suggest the committee of the whole house should not be asked to conduct an inquiry or take over the responsibility which normally is assigned to a standing committee of the House of Commons. With respect, I also suggest to the hon. member that the motion to the effect that the house resolve itself into committee of the whole is a substantive motion which requires notice.

Lastly, I point out to hon. members that the issue here is the alleged misconduct of the Minister of Justice and that because of this a specific and detailed charge must be made against the minister himself. It is sometimes a little difficult to reconcile the two aspects of the case. There is the aspect that the minister is alleged to have made accusations relating to Privy Councillors and this is the very thing for which the minister is being reproached. But actually the question of privilege is based on the alleged impropriety of the words used by the Minister of Justice and in that regard a specific charge has to be laid, according to the terms of the judgment of Mr. Speaker Michener which I read into the record this morning.

Perhaps I have used too many reasons, but if I am wrong on one or two I may be right on the other two or three. So for all these reasons and the legal argument I must deny the motion of the hon. member for Carleton.

• (2:30 p.m.)

Mr. Churchill: Mr. Speaker, may I ask a question for information? It is not intended to be embarrassing. Did you draw to the attention of the house that the practice over 100 years has been the reference of matters of privilege to a select committee? In the course of your investigations have you found instances of privilege similar to the one we have been discussing during the past few days? It seems to me that this is somewhat different from other instances of privilege

that have come to my attention as I have endeavoured to study the past history of this institution.

Mr. Speaker: I suggest to the hon. member that questions of that type cannot be asked of the Chair and I do not think I should be called upon to reply.

Mr. Heath Macquarrie (Queens): Mr. Speaker, not being of a disputatious disposition or belligerent nature I will try to do my best to lower the temperature but do nothing to lessen the anxiety which I am sure we all feel about this very important matter. If I may say so, sir, in passing, I have great admiration for the good nature and good judgment you have displayed in these difficult times.

Some hon. Members: Hear, hear.

Mr. Macquarrie: It seems to me that we have some potential contradictions of inter-relationships which obviously we are having difficulty resolving. In the first place, it seems that while we cannot desist from talking we cannot procedurally progress in any particular direction. This a very serious situation and we must as a parliament come to a decision as to how to deal with this very important matter. We cannot go on arguing forever, because damage is being done while we are arguing and while we are waiting.

I believe one fundamental has been nailed down today, and we must never lose sight of it, that questions of member privilege and members' privileges, individual and collective, are matters for this chamber. We do not even have to go to our rule book for that; we can go to the British North America Act upon which this very institution is based and founded. The immunities and privileges are ours to decide and in the final analysis a member of this house has a responsibility, as the old British expression suggests, only to his peers, and that does not mean only to the House of Lords in that connection.

If we are having difficulty in finding proper motions perhaps I may invite the minister to introduce, through his own comment to us, a solution to this problem. I agree with what you say about whether we should reach this decision as a house, as the committee of the whole or as another committee, but I would invite the minister to assist the whole house in this great problem.

One of the problems, as I see it, and I am only speaking for myself, is that we recognize that privilege is ours but for reasons of