

Again on January 29, 1958, as recorded at page 3948 of *Hansard* the matter was renewed in relation to a question on the order paper. The then Minister of Justice provided an extended reply to the question. A similar reply has been made in answer to similar or related questions on a number of occasions.

In the time at my disposal, I have come across the following examples. These appear in *Hansard* for October 29, 1962 at page 1011, *Hansard* for November 4, 1963, at page 4341, again in *Hansard* for November 28, 1963 at page 5210 and later in *Hansard* for May 3, 1966 at page 4632.

Additionally, honourable Members may be interested in reading the debate of some length on the very same subject which is recorded at pages 5161 to 5166 of *Hansard* for June 25, 1959. The conclusion to be drawn from the questions asked and the answers given over an extended period of years is that honourable Members have had reason to believe that dossiers might well exist in relation to individual Members of Parliament in their capacity as citizens at least if not in their capacity as Members as such. Also, in the same period the suggestion has come from successive Ministers that if such files exist, they relate to individuals in their personal capacity and not in their capacity as Members of Parliament.

The question is whether there are any special circumstances which might indicate that what was not considered privilege in previous years might be made the subject of such a question at this time. In my view there could be a *prima facie* case of privilege only if there were specific allegations or special circumstances leading to the conclusion that police or other activity is of such a nature as to interfere with a Member in the discharge of his responsibilities in Parliament.

Honourable Members may refer to Erskine May's classic definition of privilege often quoted in this House as it appears at page 42 of May's seventeenth edition. Parliamentary privilege is defined as 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 of the ordinary law.

According to this definition, privileges are the special rights recognized as belonging to Members of Parliament over and above the law of the land as it applies to other citizens. Parliamentary privilege is the sum of extraordinary rights claimed by Parliament for itself to ensure that Parliament can function freely and without hindrance. These privileges are very limited in scope, and parliamentary law itself prescribes that this scope cannot be extended. Essentially, parliamentary privilege is therefore freedom of speech beyond the prescriptions of the common law in reference to libel and to slander.

Does parliamentary privilege as thus defined include the special right and exemption from the law, a special privilege providing an exemption from a practice which applies to other citizens equally? Do the very particular circumstances alluded to by the honourable Member for Peace River constitute a *prima facie* case of breach of parliamentary privilege which might be referred, as suggested by the honourable Member, to a committee for the purpose of advising the Chair?

I must say in all honesty and after much consideration of the matter raised by the honourable Member for Peace River and the very important points made yesterday by the Right Honourable Member for Prince Albert that it would be difficult for the Chair, in view of past practice, to conclude that in the present circumstances there is a *prima facie* case of breach of privilege. I suggest to honourable Members that it would be imprudent of the Chair to project the question of police files beyond the circumstances or conditions raised by the honourable Member and beyond the particular circumstances alluded to by the Minister in his reply to the House and in the statement made outside the House to which the honourable Member for Peace River has alluded.

For the time being, and considering the very special circumstances, I cannot find a *prima facie* case of privilege on the facts as presented to the Chair thus far. I think I should insist that I consider the matter to be a very serious one, that certainly I recognize the duty of the Chair on behalf of all honourable Members to ensure that it will be possible for them to discharge freely their responsibilities as Members of Parliament and if any special circumstances were brought to the attention of this House and to the Chair that honourable Members in any way, by police or other practices, were in some way intimidated in their work or prevented from discharging their duties freely and without hindrance I would have no hesitation in recognizing the matter as a breach of privilege.

But I must rule at the moment on the particular circumstance brought to the attention of the Chair, and rule whether there is a *prima facie* case of privilege on this basis. My finding must be that there is not.

The House resumed debate on the motion of Mr. MacKasey, seconded by Mr. MacEachen,—That Bill C-229, An Act respecting unemployment insurance in Canada, be now read a second time and referred to the Standing Committee on Labour, Manpower and Immigration.

And debate continuing;

[At 5.00 o'clock p.m., Private Members' Business was called pursuant to Standing Order 15(4)]

(Public Bills)

Order numbered one was allowed to stand at the request of the government.