

Privilege—Mr. Reid

Under the heading "Other Forms of Misconduct" in May's eighteenth edition, at page 140, we find the following:

Giving evidence elsewhere in relation to any debates or proceedings in the House of which he is a member or officer, or any committee thereof . . .

Attending as a witness before the other House or any committee thereof without the leave of the House of which he is a member or officer.

I would refer Your Honour to a further chapter of May's at page 668. I will not quote it but it does give the full detail of the two quotations which I have already read, under the heading "Attendance of Members of the Other Place". We have gone back and looked at the precedents which have taken place in our House from time to time and I want to raise three of them to indicate just what has happened.

An hon. Member: Couldn't you have done this by letter?

Mr. Reid: On May 16, 1919, the House of Commons gave its permission to the request from the Senate that the Hon. F. Cochrane, P.C., M.P., attend before the Senate committee. Mr. Cochrane at that time was a minister without portfolio. The House of Commons accepted this request as a matter of routine and there was no debate. This will be found in the *House of Commons Debates* of that date. A more interesting one, however, is the case of Senator Crerar who was at the time leader of the Progressive Party in the House of Commons. On May 11, 1921, the House of Commons agreed to allow him to testify before a Senate committee after the appropriate formalities had been gone through.

In 1931 the Senate received a number of requests from the Commons for permission for a number of members to appear before a Commons committee that was investigating the Beauharnois scandal. I would particularly direct the attention of the House to the Senate *Journals* of July 14, 1931, where it is reported that three senators were given permission by the Senate to appear before the House of Commons special committee investigating the Beauharnois scandal.

I think those are the main points I wanted to make, with the exception of one interesting precedent which took place in 1961 when the then member of parliament for St. Boniface, Mr. Laurier Régnier, appeared before the Senate Committee on Banking and Commerce. He was dealing with Bill C-129 and claimed, among other things, that the bill was improperly before the Senate; that it had not properly passed all stages in the House of Commons, according to his interpretation. He entered into a constitutional debate with the chairman of the committee. The most important point is that he was not invited by the chairman of that committee; he appeared of his own volition and apparently requested that the committee hear him. I should like to quote the following comments appearing at page 16 of the relevant committee report:

THE CHAIRMAN: Is the committee ready now to hear Mr. Régnier, M.P.?

HON. SENATORS: Agreed.

THE CHAIRMAN: Mr. Régnier, will you come forward to my table please? Are you appearing voluntarily, Mr. Régnier?

MR. RÉGNIER: Yes.

[Mr. Reid.]

Apparently those questions were asked because the custom was, even in 1961, for members of this place to appear over there only in response to a certificate filed in the appropriate way, in the way which I have already outlined to the House. Mr. Régnier then went on to make his case before the Senate committee. As I understand it, not very much happened as a result. However, it is the only case that I have been able to find of a member of the House going over to the other place to make a case, particularly on a bill that had already been passed by the House in the normal way. In doing so, it may be argued that Mr. Régnier was in contempt of Standing Order 35 which indicates that a member cannot cast reflection on a vote of the House of Commons.

Therefore, I would make the following comments. First of all, it is quite clear that in the past there has been a whole series of very clear lines of communication between the committees of the House of Commons and the committees of the Senate when they wished to have witnesses appear before them. The procedure was clear and was practised by both the House and the Senate. The other point I want to make is that there has been a long practice of ministers and parliamentary secretaries going over to the Senate; this has been so in order that they may be permitted to promote government legislation. It is the same right that private members have when they go over to promote their private member's bills whether they be public or private. The fact is that because the bills are begun and processed by private members, those members have the same right to appear before Senate emanations in that regard.

Therefore, there is another point to be made about the Régnier case: it is that he was appearing over there after the House of Commons had given consent for the legislation to go through. In point of fact, the legislation had been passed by unanimous consent through all three stages early one evening.

This means that the question that must be put to the House is whether or not a member can go to the other place and raise doubts about a piece of legislation on which the House of Commons has already taken a stand and upon which it has acted. To do so would seem to me to put the member in violation of Standing Order 35.

The second point—this is my concluding point—is that it seems that a member of parliament should have the right to appear before a Senate emanation only in cases where the Senate is discussing a matter such as in the case of the Davey committee on the mass media, or the Croll committee on poverty, when the subject may or may not appear before the House of Commons in the same way in a reasonable length of time. What I am asking Your Honour to do is to rule on the practice of members of parliament to be heard on a variety of issues, in many cases on legislation which is undergoing study in the Senate on a matter which will be coming here in due course. This would seem to me to be in violation of the well known law of anticipation of what may happen in the House. Therefore, I think it would be helpful if Your Honour were to investigate this matter, take a stand and clear up something that seems to be undesirable in the way in which we are carrying on our business.