

Privilege—Answers of Solicitor General

dilemma that it has caused for the House of Commons, it leaves us in a situation where we are virtually without a minister to question, and without any opportunity to seek information which, in the interest of the Canadian public, it should have.

I wish to refer to a ruling of your own, sir in relation to the ministers to whom questions can be put, a ruling reported on page 6851 of *Hansard* for June 20, 1977, and I quote:

Can members ask a question of a minister in that minister's former capacity? The clear answer given time and time again, without any doubt about our practices and precedents, has been no. It is tied very directly to the theory of ministerial responsibility, that the present incumbent of a ministerial office has responsibility which goes back for all time. It does not stop at the time that that incumbent took office. Therefore there cannot be two people responsible to the House in the parliamentary sense for that continuing responsibility.

In your own words that seems to me to answer the suggestion put forward by the Solicitor General the other day to the effect that his responsibilities began only with the assumption of his duties as Solicitor General. There are some statements made by the minister outside the House which indicate that it was no slip of the tongue but a deliberate statement of considered policy by the minister. This refers to his stated intention not to answer questions in the House of Commons relating to matters before the McDonald inquiry. I will read three quotes from the transcript:

—when the alleged conduct, or questions relating to their administration, is before a royal commission or commission of inquiry, surely I am not going to supersede that commission of inquiry—

There is a second statement made in answer to a question from a journalist:

—I may answer questions from the opposition so long as those questions relate to matters that are not within the mandate of the individual commissions.

Finally, in answer again to questions from journalists, he said:

—I cannot answer questions relating to matters that come before the commission, or that the commission is presently dealing with.

● (1422)

It is very clear that the Solicitor General seeks to introduce into Canadian practice for the first time in memory—certainly that kind of startling introduction of a theory of silence before the House of Commons would have been noted had it been tried before—the idea that a government which does not want to answer questions can appoint a royal commission or inquiry to look into those questions. Then, because it has created that outside body, it is itself protected from the lifelong, historic obligation to answer to the House of Commons for the activities of the government. That clearly underlines, undercuts, and destroys any principle of ministerial responsibility in this country.

Some hon. Members: Hear, hear!

Mr. Clark: I want you, Sir, to consider the situation in which parliament is left by the clear statement of the Solicitor General, inside and outside this House, and your own ruling, when the only person we can question is the minister who refuses to answer questions relative to the McDonald inquiry.

[Mr. Clark.]

We are left in a situation where there is literally no one we can question about matters which are now before the McDonald inquiry.

It is important for us to recognize as we deal with this question that when we, in the opposition, raised with the previous solicitor general the concern that the terms of reference of the McDonald inquiry were too narrow to allow the kind of inquiry into some of the matters that we thought were essential, the answer of the then solicitor general was that the terms of reference of that inquiry were all-inclusive. In other words, they deal with any matter that might perceptibly pertain to the conduct of ministers, the conduct of the security service, or any of the other matters at issue before the House.

If we take those two statements together, it means that the Solicitor General now is saying that he will not answer questions relating to anything that comes before the McDonald inquiry. His predecessor said that every question we might want to raise in this House is a question that can come before the McDonald inquiry. That is to say, there is not a single question that we in this House of Commons can put to the present Solicitor General and expect an answer to because his statement, taken in context with the statement of his predecessor, is that he will not answer anything that comes before a royal commission which can consider every question that we might want to ask. If this position by the minister is upheld, the House of Commons is in a position where we are not able to ask any questions about anything relating to this very serious matter.

When we note this royal commission, it is important for us to understand and to emphasize that the royal commission is not a body that was set up by this House of Commons. Nor is it a body which will report to this House of Commons. This parliament has delegated no responsibility at all to this royal commission. It is a creation of the government. It is an emanation of the government. It is not an emanation of this House of Commons. It does not take any of its powers or responsibilities from this place.

Some hon. Members: Hear, hear!

Mr. Clark: What it has done is assume a government responsibility, which was a responsibility to look at past executive actions and examine their propriety. It was appointed by the government. It was appointed with terms of reference which were set out by the government and which were not accepted as being complete by the members of the opposition. Its staff has been chosen by the government and will report to the government exclusively, and indeed at a time, one suspects, when it will suit the government's own convenience.

Unless the government chooses, there will be no debate in this House of Commons about the conclusions or findings of the McDonald royal commission. Even if there had been more agreement about those terms of reference and the purpose of that commission, I think it has been well established in the history of our institution that any commission is complementary to the House of Commons and cannot replace the role and the function of this House of Commons.