

*Privilege—Mr. Nunziata*

All activities, including conversations and telephone communications in this area, are subject to monitoring and may be recorded.

The Solicitor General also told the House that a Correctional Services officer was in the room with the inmate. Upon overhearing what the inmate said to Mr. Pratt, the officer reported to the warden of Joyceville and he, in turn, reported to his superiors. The inmate was subsequently transferred to another institution, Millhaven.

[Translation]

The grievance expressed by the Hon. Member for York South (Mr. Nunziata) was ably supported by the Hon. Member for Glengarry—Prescott—Russell (Mr. Boudria), the Hon. Member for Vancouver—Kingsway (Mr. Waddell), and the Hon. Member for Windsor West (Mr. Gray); the Solicitor General (Mr. Kelleher) and the Minister of State also helped the Chair. I thank all Hon. Members for their very useful contributions.

The request of the Hon. Member that the matter be ruled to be a *prima facie* breach of privilege raises several points. I will now consider them one by one.

[English]

Members will have heard the definition of parliamentary privilege before but it bears repetition. May's 20th Edition, at page 70, sets out the classic definition. Beauchesne's Fifth Edition repeats that definition at page 11 in Citation 16:

Parliamentary privilege is 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 from the ordinary law.

The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are "absolutely necessary for the due execution of its powers". They are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its Members; and by each House for the protection of its Members and the vindication of its own authority and dignity.

Maingot, in *Parliamentary Privilege in Canada*, at page 12, gives further but similar definitions. I should add that Canadian Speakers have put such definitions on the record many times.

[Translation]

Apart from the definitions, we must consider the fact that the House cannot create new privileges. On this point I would refer Hon. Members to page 75 of May's 20th edition. Similar views can be found in all authoritative parliamentary texts. On April 29, 1971, Mr. Speaker Lamoureux said in that respect:

[English]

Privilege is that which sets Hon. Members apart from other citizens giving them rights which the public do not possess. I suggest we should be careful in construing any particular circumstance which might add to the privileges which have been recognized over the years and perhaps over the centuries as belonging to Members of the House of Commons. In my view, parliamentary privilege does not go much beyond the right of free speech in the House of Commons and the right of a Member to discharge his duties in the House as a Member of the House of Commons.

● (1510)

On February 20, 1975, Speaker Jerome cited that ruling with approval stating that "—improvement upon it is impossible and—unnecessary". Speaker Jerome continued and made the following comment:

The consequences of extending that definition (of Mr. Speaker Lamoureux) to innumerable areas outside this Chamber into which the work of an MP might carry him, and particularly to the great number of grievances he might encounter in the course of that work, would run contrary to the basic concept of privilege.

[Translation]

The Chair was unable to find in these various definitions and quotations anything which would extend parliamentary privilege to the actions of a member of the staff of an Hon. Member of this House.

That being said, I am sure Hon. Members will appreciate that this matter does not fall within the restricted scope of the concept of parliamentary privilege.

[English]

Indeed, I can go further and state that even without the direct involvement of the staff person and with the direct involvement of the Member himself, I could not find that a *prima facie* case of privilege exists. Let me explain by quoting Speaker Jerome again.

In 1975, in ruling on an alleged warning given by the National Harbours Board to its staff against communicating with Members of Parliament, Mr. Speaker Jerome clearly stated:

—the classic definition of a question of privilege does not fit circumstances in which a Member in his duties outside this House finds that his scope is being restricted or attempts are being made to restrict his scope of intervention and effective work on behalf of not only his own constituents but his point of view as a member of the federal Parliament.

He continued:

—I feel absolutely certain that the classic definition of a question of privilege as we know it does not fit because it does not affect the right of speech of the Hon. Member in this House. Indeed, his right of speech in this House to complain and to raise this grievance is unquestioned.

That statement of Speaker Jerome is very clear indeed.

As to the assertion made by several Hon. Members that an opposition critic has some special privileges, the short answer is obviously that while they certainly have some extra responsibilities and obligations, they do not have any special privileges. Critics receive, and certainly should receive, every courtesy to assist them in their duties, but they have no privileges above those of any other Member.

Mr. Speaker Lamoureux made a ruling on April 29, 1971, which may be helpful to honourable Members in this connection and I commend it to them.

I want to assure all Members that the Chair recognizes the importance of this matter and the seriousness of the situation brought to our attention by the Hon. Member for York