

Question of Privilege

to me, and I hope I will not have to repeat that to the minister. His suggestion is a bit childish in view of the explanation.

Mr. Speaker: I thank hon. members for the comments they have made to assist the Chair in reaching a decision. It is obvious from the comments we have heard there is a difference of opinion among the members, and this justifies in my mind the difficulty I have had in reaching a decision. The Minister of Public Works has pointed to a difficulty when he says there should be something perhaps specific in the motion from the article complained of. My understanding of the hon. member's complaint, on the basis of his motion, is that it is a question of personal privilege. The privilege is based on these sentences in the article:

[Translation]

The latter directed from the public gallery the attack of the Conservative member Terry Nugent against Hon. Mr. Hellyer, Wednesday.

Not only did he make signs to the member, but he also sent him messages during the debate. Witnesses have stated that Admiral Brock, who has been retired for three years, made a negative sign when Mr. Hellyer called on Mr. Nugent to put his seat at stake by making a specific charge of improper conduct.

[English]

The hon. member's contention is that his personal privilege is adversely affected when the suggestion is made that he was not speaking on his own behalf but was being directed by someone outside the house in the charges he was making at the time he proposed his original question of privilege. I might add that the precedent to which the hon. member for Edmonton West has referred, that is the 1962 case to which I will allude in a few minutes, concluded by a reference not only of certain parts of the article but the whole article to the committee on privileges and elections.

The motion presented by the hon. member for Edmonton-Strathcona has now been changed. I read it into the record a moment ago. Although it has not been put formally to the house, it purports to have the matter complained of referred to the standing committee on privileges and elections. I should like to quote from Beauchesne's fourth edition, citation 104(5):

As a motion taken at the time for matters of privilege is thereby given precedence over the pre-arranged program of public business, the Speaker requires to be satisfied, both that there is a prima facie case that a breach of privilege has been committed, and also that the matter is being raised at the earliest opportunity.

[Mr. Nugent.]

The above citation will also be found in May's seventeenth edition, page 377. At page 248 of the same edition of May we read the following:

Under usage when a complaint of breach of privilege is raised he—

This refers to Mr. Speaker.

—has to decide whether a prima facie case has been made out which would justify such proceedings taking precedence over the other business of the house.

The Speaker's function is not to decide whether a breach of privilege has been committed, because this question can only be decided by the house itself. The role of the Speaker is limited—and this has been pointed out by the hon. member for Edmonton West—to deciding, on a question of order raised, whether (a) the complaint has been raised early enough and (b) if it can reasonably be held to be of the nature of a breach of privilege so as to give priority to the matter.

• (3:10 p.m.)

Has the matter been raised at the earliest opportunity? The article was published on Friday, October 14 and the question of privilege was raised only on the following Thursday, October 20. Some may hold the view—although this objection was not taken in the course of the argument that we had earlier today—that the matter was not raised at the first opportunity. However, I have taken into account the explanation and the reasons for such delay given by the hon. member for Edmonton-Strathcona last Thursday, and I do not think his complaint should be set aside on that particular ground.

The matter remaining to be decided by the Chair is not, I insist again, whether a breach of privilege has been committed but whether there is a prima facie case that can reasonably be submitted to the house for adjudication. In citation 113 of his fourth edition, Beauchesne refers to libels upon members and aspersions upon them in relation to parliament as breaches of the privileges of the members. At page 303 of Bourinot's fourth edition we read as follows:

In the Canadian House, questions of privilege take a wide range, but it may be stated in general terms that they refer to all matters affecting the rights and immunities of the house collectively, or to the position and conduct of members in their representative character.

He places in this category reflections or libels in books and newspapers on the house or members thereof.

May deals with breaches of privilege or contempt in chapter VIII of his seventeenth