

Business of the House

(3) In particular, to consider and report whether the conduct of the hon. member was contrary to the usages of the house, derogatory to the dignity of the house and inconsistent with the standards which parliament is entitled to expect from its members.

The House of Commons has concerned itself with the conduct of a member outside of the house from time to time; for example, where a member used his public office for private gain, has compromised his independence by taking money, or has been found guilty of some scandalous crime. It is provided by law—the Senate and House of Commons Act, R.S.C. 147, s. 1—in the section dealing with the independence of parliament that no member shall hold any office of emolument under the crown nor enter into any contract with the government of Canada for which any public money of Canada is to be paid on pain of forfeiting his seat.

On the other hand, it is clear that many acts which might offend against the law or the moral sense of the community do not involve a member's capacity to serve the people who have chosen him as their representative nor are they contrary to the usage nor derogatory to the dignity of the House of Commons. Members of the House of Commons, like all other citizens, have the right to be regarded as innocent until they are found guilty, and like other citizens they must be charged before they are obliged to stand trial in the courts. Parliament is a court with respect to its own privileges and dignity and the privileges of its members. The question arises whether the house, in the exercise of its judicial functions with respect to the conduct of any of its members, should deprive such member of any of the safeguards and privileges which every man enjoys in any court of the land.

It has been strongly urged by some members that the house should not set in motion its power to try and to judge the conduct of a member unless such member is charged with a specific offence. It is urged further that not only must he be charged, but that he must be charged by a member of the House of Commons standing in his place.

In my view, simple justice requires that no hon. member should have to submit to investigation of his conduct by the house or a committee until he has been charged with an offence. Must this charge be made by another hon. member on his responsibility? The Leader of the Opposition (Mr. Pearson) raised this same issue in the question which he put to me in the following words, as reported in *Hansard* at page 4839:

If this motion is ruled out of order, does it mean that no question of privilege can be raised in this house for submission to a committee which

[Mr. Speaker.]

arises out of allegations, direct or implied, made against a member of this house outside the house by a judgment of a court or in some other way, unless a member associates himself with those allegations to the point where he has himself to lay a charge against another hon. member?

To say yes to this question would be to overlook precedents in which inquiries have been undertaken on the basis of charges implied from documents. Examples are the case of Jean Baptiste Daoust, reported in the *Journals* of the House of Commons for 1876 at pages 1456 to 1460 where a reference to the committee on privileges and elections was ordered after reading entries in the *Journals* for 1866. These entries contained court records relating to the conviction of a Mr. Daoust for forgery. Mr. Daoust, the member, admitted that he was the man in the case and the house referred the matter to the committee.

Another is the Schell case in 1903, as reported in *Hansard* at pages 4959 and 5416, where the charge of contracting with the crown was implied from the report of the Auditor General tabled in the house and the payment of a small sum of \$5.50 was admitted by Mr. Schell.

On the authorities it appears to be open to an hon. member to confront the house with charges against another member implicit in documents in the possession of the house, but in my view the charge must be there.

In the case before us no hon. member has taken the responsibility of making a specific charge against the hon. member for Peel. At page 4829 of *Hansard* the hon. member for Essex East says of the Leader of the Opposition, in whose name the motion stands:

He made no charges, that is true. That is his continuous answer to the Prime Minister who repeats, "Make charges". The Leader of the Opposition said, "We have no charges to make".

If there is a charge, then, which the hon. member for Peel should be called upon to meet it has to be implied from the reasons for judgment already referred to. Did the learned judge in commenting on the evidence say or imply that the member for Peel had been guilty of a criminal offence, perjury for example? Certainly not; and if he had it would have been his responsibility to bring the matter to the attention of the crown for prosecution. Did he intend or imply that the hon. member's conduct was an offence against the independence or dignity of the House of Commons, about which as a former member of that house he would be cognizant and alert? He does not say so. There is no direct charge of this kind in the judge's observations about the hon. member for Peel, nor has any member of this house taken the responsibility himself of saying that such