

*Administration of Justice*

I know the difficult position you are in regarding this matter in deciding what is the correct action to take. As I understand the debate which has taken place during the last three days, and I have read those portions which I missed during the last part of last week, we have now reached a situation where by reason of events and the lapse of time there has been an acceptance of the fact that a prima facie case of privilege exists. If that were not so, surely we would not have spent three days on this subject.

It should not be necessary for any member to quote chapter and verse to other members of the house, but the burden falls squarely on the member or members who wish to raise a question of privilege to move a substantive motion if a prima facie case of privilege has been ruled to exist by the Chair. I should like to quote from page 134 of Erskine May's *Parliamentary Practice*, 17th edition, which states in part:

It is irregular to make a complaint unless the member intends to follow it up with a substantive motion referring to the matter—

Mr. Speaker, the ministers of the former Conservative government have been complaining that they have a question of privilege; yet during the course of this entire debate respecting the question of privilege they have continued to prod—use whatever word you like—the Minister of Justice (Mr. Cardin) into naming names. The Minister of Justice did not raise the question of privilege. Whether he wants to name these names or chooses not to name them is his prerogative. The members of the former government are those who feel aggrieved or abused by something that was said outside this house and they in fact have a recourse. They do have a remedy. They can raise a question of privilege in this house and ask Your Honour whether or not there appears to be a prima facie case of privilege. If you decide there is a case of privilege, then those members so aggrieved or abused are bound to move a substantive motion. In doing so they have the right to name the Minister of Justice and to refer specifically to the charges he made outside this house.

● (8:40 p.m.) ●

At the stage we have now reached it is essential for any member, including the former prime minister, who feels he has been aggrieved or abused by the Minister of Justice in what he has said outside this house to

get on his feet and move a substantive motion. In that motion they can, as I said, name the Minister of Justice as the person who has in fact abused their privileges. But it is not sufficient to suggest that the only way this can be done is by the Minister of Justice getting on his feet and naming names. What is more, we do not accept this completely new departure in dealing with a question of privilege, namely, to refer it to a judicial inquiry.

I suggest that it may be right and proper for the Governor in Council to pass a motion setting up a judicial inquiry to inquire into the matter of Canada's security, and if they wish they can confine it even more than that and set up this kind of an inquiry to inquire specifically into the matter of national security respecting the so-called Munsinger case. But I think we would be doing parliament a great disservice if we were to accept that this judicial inquiry is going to settle a question of privilege affecting one or more members of this house.

I am sure Your Honour has examined all the precedents and authorities, and I do not believe you can find any case where this has been done in the past. It must be settled in this house. Citation 107 of *Beauchesne's* fourth edition makes this fairly clear and there are also a number of other citations dealing with this point. Citation 107 says:

"Whatever matter arises concerning either House of Parliament, ought to be discussed and adjudged in that House to which it relates, and not elsewhere. Judge ought not to give any opinion of a matter of Parliament, because it is not to be decided by the common law"—

And so on. I simply want to draw to your attention, Mr. Speaker, that we are deeply concerned whether the result of this action is going to transfer to a commission outside this house the business of hearing the evidence and making recommendations respecting a matter of personal privilege. We do not believe this should be done. There is no precedent for it and I think it would be transferring from this house a great deal of the authority, rights and privileges that most of us are very jealous to guard and protect.

I shall say no more except that perhaps there could be an inquiry into security and the Munsinger case. But if it is a question of personal privilege affecting one or more members of the house it should be settled by the house and the proper way is for those who feel aggrieved to make a motion now and for this house to consider it and to refer