

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 burden of this definition is that parliamentary privilege is the sum of the peculiar rights without which the houses, and the members of the houses in particular, could not discharge their functions.

May goes on to comment on various particular privileges which illustrate the nature of parliamentary privilege. There is, for example, the special right of a member that what he says to the house may not be brought up against him in an ordinary court of law. There is the special right of the House of Commons—

—to settle its own code of procedure.

Then there is the special right of the House of Commons to protect its members from threats, intimidation and misrepresentation. But I submit very strongly that there is nothing in all the authorities that shows that a statement made outside the house and not containing a distorted description of a debate is a breach of the privileges of the house. Privileges are the special rights required by the houses, and their members, if they are to do their work.

● (2:50 p.m.)

Redlich has defined "privilege" as—

—the sum of the fundamental rights of the house and its individual members as against the prerogatives of the Crown, the authority of the ordinary courts of law and the special rights of the House of Lords."

The above is quoted from page 46 of volume I. You will note, Mr. Speaker, he poses the privileges of the House of Commons over against the prerogatives of the Crown. This juxtaposition is particularly helpful in this instance because the fact complained of by the hon. member for Calgary North (Mr. Woolliams) as a "breach of privilege" is an alleged "cabinet leak".

Surely, it is a matter of prerogative that the councils of the Crown are secret. The oath taken by a person being sworn on the Privy Council is not prescribed by statute; rather it is founded in prerogative. Section 11 of the British North America Act confirms this.

It may be that the House of Commons will not tolerate the continuation in ministerial office of a person who has breached the prerogative rights of the Crown by authorizing a

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cabinet leak. The house may not wish to continue such a person in office. That is not a matter to be considered by the Standing Committee on Privileges and Elections to which a prima facie case of breach of privilege has been sent, but rather by the whole house acting in its own free discretion on a non-confidence motion.

The hon. member for Calgary North mentioned two cases of what he called indiscretion relating to budget information in Britain. The ministers guilty of those indiscretions resigned, not because they had breached the privileges of the House of Commons, but because their indiscretions were regarded as so serious in principle that they could not expect to survive a vote in the house.

My submission, sir, is that if the hon. member for Calgary North has any basis whatsoever for a grievance, that basis cannot be that the privilege of this house has been breached.

The other day the hon. member appeared to make the second argument that the privileges of the house had been offended against because the statement had been made outside the house, rather than inside the house. It is quite true it has become a custom, a habit, to make major government announcements in the House of Commons, if the house is sitting at the time. I would inform the hon. member that this is a matter of courtesy to the house, not a matter of formal obligation, just as there is no formal obligation on members opposite to give notice of a question of privilege, or of a question on the Orders of the Day.

I believe the reason for that is obvious. To hold otherwise would be to bring to a virtual halt the operations of Her Majesty's civil and military service. It would engulf parliament in a sea of announcements. The government in all its aspects makes literally thousands of decisions every day. If it is to be under an obligation to announce all of these in the house, there would be little time to do anything else.

As I have said, it has become the habit of ministers to make these announcements out of courtesy to hon. members. The practice is not founded on any dictate of the law, any standing order, or any constitutional convention. It is not in particular founded upon any of the privileges of this chamber and therefore cannot be the subject matter of a motion founded upon a claim of breach of privilege.

I would submit from the facts put forward to the house today by my colleagues, that there is a clear indication the privileges of