

Question of Privilege

This, Mr. Speaker, is the first official intimation I have had that it is the intention of counsel to request that I appear before the commission. I do not wait for the issuance of an official subpoena because I do not wish to appear in the least reluctant to assist the commission in any way I can. But I do believe that the receipt of this letter, coming as it does from the official commission counsel, is sufficient upon which to base the privilege which I place now before the house.

I draw to Your Honour's attention a rule which I do not intend to more than refer to in passing, namely standing order 5. Further, in Beauchesne is found reference to the law of parliament which, as I see it, stipulates that no member is at liberty to give evidence elsewhere in relation to any debates or proceedings in parliament except by leave of the house of which he is a member.

Some hon. Members: Agreed.

Mr. Nielsen: I have no doubt, sir, that all members would willingly grant that consent. That will be developed, but I think the matter goes deeper than that. I believe the government must consider the introduction of a formal motion in order to give me that authorization to appear and discuss matters which have been raised in this house.

In respect of that statement of my understanding of the law of parliament, sir, I should like Your Honour to refer to the report of the United Kingdom select committee quoted in Beauchesne's fourth edition at pages 417 and 423. I should also like to refer Your Honour to May's fifteenth edition at page 121 and the case therein cited. I believe this ruling also applies to officers of the house, and in that connection it is my understanding that one of the officers of the house, the present Clerk, has had an experience in that regard.

May's fifteenth edition at page 121 sets out the following:

Members of both houses are, by the law and custom of parliament, exempted from attendance as witnesses during the session of parliament, and from service as jurors at all times by the Juries Act, 1870 (see p. 77).

But, according to present usage, the service of a subpoena on a member during the session of parliament, unless effected within the precincts of the house, *sedente domo* (see p. 77) would not, as a general rule, be regarded as a breach of privilege.

The reference in Beauchesne to which I referred Your Honour includes the following statement at page 423, in paragraph 11:

By the law of parliament "no member is at liberty to give evidence elsewhere in relation to any
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debates or proceedings in parliament, except by the leave of the house of which he is a member"; and no clerk or officer of the house or shorthand writer employed to take minutes of evidence before the house or any committee thereof may give evidence elsewhere in respect of any proceedings or examination had at the bar or before any committee of the house without the special leave of the house.

It is to that reference that I draw Your Honour's attention.

The Dorion commission, or one of its officers by the authority of the commission, sir, has already directed members of the house to appear and testify before it. Two members of the house have in fact appeared before the commission and have testified. I may be incorrect in stating this, sir, but I believe that neither the permission of Your Honour nor any special leave of the house in accordance with the rules was granted to either of those members who did in fact appear before the commission. One of them is a minister of the crown. The directions or requests to the members of the house to appear before the commission were not and have not been communicated, to my knowledge, to Your Honour. While the rules may have been overlooked in that regard, I believe that is still a breach of what I believe to be parliamentary law. The members who appeared and testified did so without first having obtained the consent of the house so to do, which is also contrary to parliamentary law.

I understand also, sir, that the list of witnesses which has been published in the press is an indication of an intention to again call one minister of the crown and the Minister of Justice before the inquiry. I believe in reply to a question put by the right hon. Leader of the Opposition the Prime Minister indicated that he too would be willing to appear before the inquiry if a subpoena were issued to him.

I believe, sir, that the question I raised is one which should be given serious consideration by the house. It is my understanding after reading the precedents that a substantive motion should be introduced granting special leave to any member of the house to attend this or any other judicial proceeding while parliament is in session.

I raise the matter now, at the first indication I have had from the commission that it is intended to request that I testify before it. The week end is coming up. The Prime Minister and his government will have an opportunity to consider the question of privilege involved, and it would be my suggestion to