

*Privilege—Mr. Nielsen*

situation where members, other than government members, have no way of bringing a question of privilege to a head if a government majority chooses to exercise its majority in a committee.

If that is the position, Madam Speaker, which I anticipate you might be taking in agreement with the government House leader and in accordance with my understanding of our existing rules, it may well command the immediate attention of the Chair and of all members of the House, since it is only those members on the government side of the House, who form the majority in any of our standing committees, who seem to enjoy the right to have a question of privilege reported to the Chair in this chamber and have it ruled upon. All other members are denied that right. In my submission that is very wrong and should be rectified.

The substance of the matter which was spoken about yesterday, as you will recall, Madam Speaker, was the right of members of this place to be able to rely on statements made by ministers of the Crown in the parliamentary process and on behalf of the government. That is not a hypothetical situation, in view of the events of last week and in view of the fact that the matter was on the floor of this House yesterday.

Just to touch very briefly upon what was dealt with yesterday, what your ruling was intended to deal with, and I am sure will be dealing with when it is given with respect to the proceedings yesterday, the question yesterday was narrowly confined. If there is any doubt about that, I suggest it should be resolved in favour of the privileges of members rather than the privileges of the government.

● (1510)

It was narrowly defined as to whether or not it is an abuse of the privileges of all hon. members for one minister to give an undertaking on behalf of the government and for a second minister to withdraw that undertaking. I do not intend to address myself to that point, in compliance with Your Honour's stricture. I intend to develop my submissions to you on three other very important points with respect to this question of privilege.

The first submission I wish to make to you, Madam Speaker, is with respect to the resolution of the question as to whether or not a breach of the privileges of the members of this House occurred by the fact that action was taken by some hon. members as a result of reliance upon an undertaking given by a minister of the Crown on behalf of the government in a parliamentary process, as in the case which arose and which was discussed yesterday, wherein amendments were withdrawn and discussion advanced to a later clause of the constitutional resolution, as a direct result of undertakings made by a minister of the Crown, and later revoked. Madam Speaker, in other forums that would fall within the definition of false pretences, under the provisions of the Criminal Code.

I would like to read from section 319(1) of the Criminal Code to see how that situation is regarded. It reads:

A false pretence is a representation of a matter of fact either present or past, made by words or otherwise, that is known by the person who makes it to be

false and that is made with a fraudulent intent to induce the person to whom it is made to act upon it.

That it was acted upon, there can be no doubt. With respect to the intent, I intend at a later stage in the development of my submission to refer you to citations from May's which strongly suggest that a breach of privilege has occurred on that count. There is no doubt in my mind, and I submit to you, Madam Speaker, that in a civil forum such representations would be regarded as a civil wrong, commonly called a tort.

The key point in procedural terms in my submission is whether or not the minister deliberately misled a parliamentary proceeding. It can be argued that when the Solicitor General (Mr. Kaplan) accepted the Conservative amendment he knew very well what arguments had been made against it during the summer, and by whom. It seems to me the record will disclose that was the case. In accepting the amendment he was either saying that the government had decided to set those arguments aside as being less crucial than the arguments in favour of the subject matter of the amendment which was being put forward, or he was only giving the appearance of accepting an amendment which he knew at the time would have to be repudiated at a later date. The position was changed after repetition of the original—

**Madam Speaker:** Order, please. I sympathize with the difficulties the hon. member might have in arguing his case. He is constantly getting very close to discussing what has happened in a parliamentary committee. It is not because he calls it a parliamentary proceeding, that he chooses to give it a very general term, that the Chair must not see that he is obviously discussing what took place in the committee. I will hear the hon. member's question of privilege, but I must ask him not to refer to the proceedings of that committee because, as he knows, these questions should be discussed and dealt with in the committee. He knows the rules as well as anyone in this chamber. The way to deal with it in the House is to bring it into the House through a report. These rules are wise.

The Chair does not know what is going on in the committees and therefore it is difficult for the Chair to rule on matters which happen in a committee, unless the Chair receives a report. That is the reason for which that rule exists. It is sensible and wise. I would ask the hon. member not to put the Chair into too difficult a position, and I would ask him to try to argue very closely to his point. His question, as stated, would have to be very specific. He would have to argue it in terms of that specific statement and not refer to events or proceedings which took place in the committee.

**Mr. Nielsen:** Madam Speaker, I appreciate that advice. Allow me to reflect for a moment, however, on the reasons for the existence of that rule. With great respect, I believe the reason for the rule which prohibits a discussion of committee proceedings in the House before those proceedings have been reported is a very narrowly technical reason, namely, that the House is not technically seized of the evidence, the record of the committee proceedings, until such time as that report does come into the House. In this modern age, where *Hansard* is