

*Privilege—Mr. W. Baker and Mr. Nielsen*

said that the Solicitor General's statement had later been denied by the Right Hon. Prime Minister (Mr. Trudeau).

Essentially the question raised by the hon. member for Nepean-Carleton, which was debated by other hon. members as well, including the right hon. Leader of the Opposition (Mr. Clark), deals with conflicting statements made before a committee by two government members. It is relevant to point out that the ministers' statements which gave rise to the difficulty mentioned in the House were made before the committee.

That question therefore places the Chair in a rather delicate situation since it would seem that I am being asked to make a ruling on the proceedings of a committee. Obviously I cannot and I do not want to do that. The fact is, however, that during question period on Tuesday, January 27, the problem was brought to the attention of the House and there is no doubt that hon. members did the best they could. They were very careful not to comment on the proceedings of the committee. It is therefore in light of the remarks heard in the House that I must rule on the question of privilege which confronts us today.

Now, nothing was said during last Tuesday's debate which might indicate that the privileges of hon. members have been affected or that there might have been contempt for the House. Hon. members will agree, I think, that the rules or conventions governing relations between ministers of the Crown are not included in that part of parliamentary law relating to privilege. The same thing applies to commitments which are announced by ministers now and then and which are sometimes changed in a later statement. That may give rise to more or less well-founded complaints or grievances, but it does not constitute a breach of privilege.

As hon. members know, parliamentary privilege is very limited and is essentially restricted to freedom of speech, access to Parliament Buildings, immunity against arrest or molestation, and exemption from serving as juror or witness. In my opinion the point raised in the House by the hon. member for Nepean-Carleton may be a grievance, but it cannot be considered a question of privilege.

● (1210)

[*English*]

On Wednesday the hon. member for Yukon raised a new question of privilege which he described as probably overlapping the preceding one. He presented his argument and raised four questions, each of which asked the Chair to determine whether or not privileges would be breached under certain circumstances.

On the one hand, the House will understand that if these circumstances related to an incident in a committee, the Chair cannot rule unless there has been a report from the committee to the House, and no such report has been made. On the other hand, if the hon. member is raising these questions in general terms, without reference to a specific case, again the Chair cannot rule, since the Chair cannot be asked to rule on a

hypothetical matter. I quote Beauchesne's fifth edition, citation 117, as follows:

Hypothetical queries on procedure cannot be addressed to the Speaker from the floor of the House.

Therefore I cannot find a *prima facie* breach of privilege in the arguments presented by either the hon. member for Nepean-Carleton or the hon. member for Yukon.

At the same time, however, a number of points were raised in the elaboration of the arguments which claim some attention from the Chair. First, the hon. member for Yukon cited certain passages from Erskine May, for example "Conspiracy to Deceive either House or Committees of either House", as being examples of what we consider contempt; "Presenting Forged, Falsified or Fabricated Documents to either House or Committees of either House"; "Conspiracy to Deceive either House or Committees of either House"; "Misconduct of Members or Officers of either House as Such—Deliberately Misleading the House"; and "Corruption in the Execution of Their Office as Members".

I agree with the hon. member that these passages describe actions which would be contempts, but I have examined his arguments very carefully and cannot find that he adduced any evidence whatsoever to support any charges of this nature. It is one thing to state the law, it is another thing to offer evidence that a transgression has occurred. Obviously a link has to be established between the two.

Again, in elaborating the argument, the Right Hon. Leader of the Opposition appealed to the Chair as the ultimate guardian of the rights and privileges of Parliament. He is really asking me to disregard the decision of a majority, and this I cannot do, since that decision was arrived at in conformity with the rules of the House. I would point out that it is up to the House itself to determine whether or not a contempt has been committed, and the Speaker's finding of a *prima facie* case is still subject to the final decision of the House, arrived at through the votes of a majority of members.

The hon. member for Edmonton West (Mr. Lambert) suggested an analogy between procedures in a Committee of the Whole and a standing or special committee. In both cases the Speaker acts only upon a report from the committee, and in both cases matters affecting privilege can be dealt with only by the House itself. I quote again from the fifth edition of Beauchesne, citation 80, as follows:

A question of privilege, on the other hand, is a question partly of fact and partly of law—the law of contempt of Parliament—and is a matter for the House to determine. The decision of the House on a question of privilege, like every other matter which the House has to decide, can be elicited only by a question put from the chair by the Speaker and resolved either in the affirmative or in the negative, and this question is necessarily founded on a motion made by a member.

Finally, the hon. member for St. John's East (Mr. McGrath) appealed to the Chair to protect the rights of the minority, by referring the matter to the Standing Committee on Procedure and Organization. Again I would say that the Speaker protects the rights of all members but protects these rights under the existing rules. I have no choice but to apply the rules. It is not up to me to change them. Any alleged