

Privilege—Answers of Solicitor General

obviously because it relates to events that might take place in the question period. That is self-evident. That being the case, it seems very difficult to ask that I should attempt to adjudicate on these complicated matters and, perhaps mistakenly, try to make instant law.

On the other hand, that reasoning is going to persist and it is difficult to launch into the question period without at least attempting to resolve some of the issues that have been raised both Friday and today. The importance of the matter is so fundamental to the operation of parliament that I think it deserves that kind of priority.

I should clarify just briefly the procedure involved. I have received two motions which, to the purists of parliament, of course, would raise some fears that I had taken leave of even the most fundamental knowledge of parliamentary procedure. However, it will be recalled that because this is being put forward as a matter of privilege it is necessary first to persuade the Chair that it is a matter which falls so within the definition of privilege, that it ought to be given that prioritized treatment often referred to as a *prima facie* case of privilege.

However it is to be described, it requires some intervening or preliminary decision by the Chair in acceptance of the subject as having that priority attached to privilege so that all other business should be stopped while this is considered and, therefore, those who raised it be given the opportunity, without notice and without the other constraints that stand in respect of the introduction of a motion, to put a motion forward at that time.

Hence, both motions are quite properly in the possession of the Chair in the form in which they were put forward, because both advance the thesis that if the Chair first decides that the matter should be given that priority of privilege then the motion can be examined on its merits to see if it has any other technical flaws. If both of those conditions are met, presumably the first motion, if it met all other criteria, would be put forward and, therefore, the second motion could not be put. On the other hand, if the first motion fell on some technical ground the second motion could be received, and it is on that basis that I am in possession of two motions at this time.

The whole matter and argument are centered around the theory of ministerial responsibility. This is a very clear doctrine that has been repeated and repeated many times, because it touches the procedures of the House so frequently. The hon. Leader of the Opposition (Mr. Clark) raised my own paraphrasing of that repeated definition reported on page 6851 of *Hansard*. It is simply based on the cornerstone that a minister must have responsibility in the informational sense, and here I make the division which was referred to by the hon. member for Oshawa-Whitby (Mr. Broadbent). This refers to the responsibility of a minister, since we have said that we cannot put questions to former ministers in their previous capacity simply because to do so would mean that the responsibility of the present incumbent would only go back to the date of his appointment.

We hold to the theory as being very fundamental to parliamentary practice, that the responsibility to this parliament in

[Mr. Speaker.]

the informational sense, and I hope this is not a misleading term, goes back for all time. I do not need a standing committee of this House to undertake some kind of study to reaffirm that proposition. In deciding the ambit of responsibility of a minister to whom questions can be directed in this House, we have decided that such responsibility goes back for all time in that portfolio.

● (1612)

Now, the hon. member for Oshawa-Whitby referred to another aspect of ministerial responsibility, to moral responsibility. I believe that was the term he used. It is obvious that the direct administrative responsibility to parliament of any minister for the department cannot go back prior to the date of his appointment. I think that is fundamental as well. If it turns out that the evidence discloses that a civil servant in that department has been somehow misinformed or has been guilty of misconduct for which the minister has to direct an apology to parliament, surely the minister cannot be called on to resign. However, if it is during the period of time when that minister has been in office, then either the civil servant is fired or the minister resigns—

Some hon. Members: Oh, oh!

Mr. Speaker:— which is the administrative aspect—

Some hon. Members: Oh, oh!

Mr. Speaker:—perhaps instead of saying fired I should have said disciplined. I do not want to make instant law, but the point is that again I say I do not need a standing committee of the House to undertake a study and report back to me on this issue. If the House takes any comfort in that definition, I am trying to make it as clear as I possibly can.

If the minister says that his responsibility goes back to the date of his appointment, he may be correct in referring to some direct responsibility so far as defalcations in the department are concerned, but he is incorrect if he is referring to the informational responsibility to receive questions in the House in connection with that particular department. I hope that that is clear now.

Now I do want to clear up another matter because it was referred to at some length by both the hon. member for Calgary North (Mr. Woolliams) and the hon. member for Yukon (Mr. Nielsen). In attempting to involve the Chair in this problem I believe we must make a very clear division. It should be remembered that what was being discussed by the Solicitor General (Mr. Blais) last Friday has a certain obvious limitation. On Friday the Solicitor General could speak only about what position he might take in answering questions. That does not in any way transfer to the Chair the responsibility to provide an opportunity to put questions, which is quite a different thing. It is for the Chair to decide whether the questions that are put are proper questions. What happens when they are put is another area with which I will deal in a moment.