

Question of Privilege

case of Cinq-Mars. There were one or two subsequent cases in which the privileges of parliament received full consideration. Indeed, I well remember the proceedings here in 1912 respecting the privileges of the house. They were dealt with at great length in the case of one Mr. Miller, who had refused to answer certain questions which came before the house or a committee. In the student bodies of those days it was always the subject of discussion, and it was observed that even if a decision in the affirmative was made, the question arose as to whether the tower was there to provide the necessary jail for anyone who had committed a breach of the privileges of the house. However, as one looks through the records one finds that while those rights must be guarded jealously, drastic action should not be taken. Such matters, even though they are relatively an abuse of the process of parliament or of its privileges, do not necessarily require either the drastic action suggested in the motion of yesterday or, indeed, in the new motion of today.

The privileges of the house are provided for in the Revised Statutes of Canada, chapter 249, section 4. Summarizing those privileges, immunities and powers, they are those exercised, enjoyed and held by the Commons of the United Kingdom as of the time of confederation. I am not going to refer in detail to the observations which have been made thereon. I would simply point out that the privileges of the Canadian parliament are those which were in existence at confederation, and no new ones have been created. In support of that I respectfully draw the attention of hon. members to the fourth edition of Beauchesne, page 97.

The question as to whether the publication of debates in parliament is a breach of the rights of parliament has never been decided, as I read the records of parliament. Anson has set forth the proposition clearly in these words to be found in volume 1, fourth edition, at page 174:

We are accustomed, therefore, to be daily informed throughout the parliamentary session of every detail of events in the House of Commons, and so are apt to forget two things. The first is, that these reports are made on sufferance, for the house can at any moment exclude strangers and clear the reporters' gallery; and that they are also published on sufferance, for the house might at any time resolve that publication is a breach of privilege and deal with it accordingly. The second is, that though the privileges of the house confer a right to privacy of debate they do not confer a corresponding right to the publication of debate.

I mention this because of the document in respect of which the motion has been made. This document is a reproduction of the fore-page of *Hansard* debates containing the words

“Official Report—Speaker: The Hon. Roland Michener” and, indeed, it has every detail on it—

Mr. Winch: And “Printed by the queen's printer”.

Mr. Diefenbaker: Yes. The hon. member is correct; I said it has everything on it which a photostatic reproduction of the fore-page of the *Hansard* report would reveal, even to the price per copy. That is the reason I mentioned the question of publication, because sometimes when we mention the presence of visitors in the gallery of the House of Commons we fail to recall that there is no gallery and there is no one present here excepting the members elected to the House of Commons. Publication of the records of parliament has never been officially approved in any way, although it is taken for granted following the custom of the passing years that publication may be made.

In so far as the document in question is concerned, the point to be considered is whether it does constitute a breach serious enough to require definite action. The most serious aspect is probably the fact that your authority, Mr. Speaker, is called into issue inferentially. Indeed, the official report is published under the authority of the Speaker. I think this motion has been helpful in one regard, namely that hon. members have ascertained that nobody seems to know the basis on which *Hansard* is published, or the authority for its publication.

Mr. Winch: We do.

Mr. Diefenbaker: The hon. gentleman makes a short cut through this, but the fact still remains that the only basis is in the estimates which deal with printing. We are not here to speculate on the reason, but there is no statute nor anything in the nature of a statute or rule or regulation which provides for its publication.

The official report, however, in the progress of years has been published under the authority of the Speaker. The course followed by the publisher of this document might tend to imply that the Speaker has authorized the publication of the document in question, or lent his authority to these arrows on pages 2 and 3, which indicate that greater emphasis is to be placed on these portions of the document than on some others, notably the remarks of the hon. member for Dollard (Mr. Rouleau) which appear on the same page. That might place the Speaker in the position of not being impartial.

However, as one examines the document—and I would be the first to do everything possible to uphold the privileges of the house