

*Privilege—Ruling Mr. Speaker*

gave rise to the question of privilege raised by the hon. member for Peace River. I heard him warn about the dangers inherent in certain legislative provisions before the House, in so far as they might somehow restrain the proper freedom or independence of the press in our country. I do not know I can do other than conclude that his remarks initially, and certainly as he explained them in this House, constitute a contribution to the debate in respect of these particular legislative measures.

If it is true, as he alleges, that there is some danger in the purport or intent of these legislative measures, surely the remedy is for the House to debate them, vote against them, expose them to public view, and use every other remedy available to members by way of amendments or otherwise, and so attack those particular legislative provisions. I cannot find that the matter goes beyond an attack on the legislative provisions themselves, and should be argued in the usual way in debate. I cannot find that it has about it that special aspect of privilege which, after all, differentiates a substantive motion, which has this one particular characteristic: If a matter raised by way of what is normally a substantive motion has inherent in it something which affects the privileges of members in the House, in the narrow sense I have defined, it takes priority over other business, can be put by the member without prior notice, and is given priority, because it touches on privilege.

In the circumstances the Chair must always decide this: Is this the substance of a substantive motion, in ordinary terms, or is it privilege? If it is privilege, it is given priority. If it is not it may be treated—if I may be permitted the observation—in the way this motion might very well have been treated, as an ideal one for an allotted day, or perhaps in other ways in which motions can be brought forward by private members. It is, in other words, a substantive motion and not, in my opinion, a motion which touches privilege.

The motion of the hon. member for Vancouver-Kingsway (Mrs. Holt) contains, on the face of it, all, if not almost all, the elements of privilege, and is supported by clear precedent in the British House of Commons. It contains elements of interference with the work of members in their committee, because it relates to the publication prematurely of a subcommittee document in preparation for a committee report. It prejudices, I think, the secure identity of witnesses and people who co-operated with the committee. It prejudices in that way probably the work of future committees, with respect to the kind of co-operation we hope our House of Commons committees will secure. There is no doubt that in the United Kingdom the matter would be dealt with as privilege.

I point out to hon. members that it would be dealt with in the United Kingdom as privilege because of a specific resolution of that House which says that the premature publication of confidential committee reports before they have been tabled in the House will be treated as privilege. Our House has never taken that step. I think there are probably a number of good reasons why we have never done that, but we may want to and I think we ought to consider carefully some of the difficulties

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which face us here. For instance, I am concerned because the motion in this case indicates an attack upon the press for the publication of a confidential document. Of course, it attacks the press because the press has published the document, and that publication is a fact which speaks for itself and needs no further argument to establish it.

It concerns me, however, that the motion appears to attack the press for publishing a confidential document but does not attack ourselves as members of the House for our own attitude in respect of our own confidential documents. Since it misses that point it misses something I think most important with respect to the privileges of the House. I do not accuse. I simply ask are we prepared to concede that we ought to go to a committee of this House and ask it to examine the conduct of outsiders without asking it to examine our own conduct in this regard? It may be accidental. It may be the result of negligence; it may be a deliberate release by one of the members, or by any member of the staff. How can we attempt to inquire into those who publish the document unless we are prepared to inquire into our own conduct? And if and when we inquire into our own conduct, would we not ask ourselves this: Does this committee have a mandate to inquire into the conduct of members, upon this kind of motion? I would say, no, but it certainly should. And if it does this, should there be specific allegations, as we have said in the past, about misconduct by a member, a staff person, or others? I do not know. However, I am concerned in case we would appear to embark upon one kind of inquiry without embarking on the other, and we could not undertake an inquiry into the conduct of members, I suggest, without a proper and specific mandate.

The result of this practice in the United Kingdom, where such matters have consistently been treated as privilege, is this: The committee reports back to the House that the publication has taken place, that the publication is premature, and that it therefore offends the privileges of the House, something we already know, I suggest. The House usually debates the matter and finds that no penalty should be exacted. I wonder, before we take one step in the direction of that procedure, if we want to be led in that direction. Perhaps we do. I suggest that, in the circumstances we should answer some of these questions before we attempt to deal with this matter as an absolute matter of privilege in every case.

● (1550)

While the hon. member's motion suggested that the matter be referred to the Standing Committee on Privileges and Elections, I hope that if she and the House will agree with me we will perhaps be well advised to refer this matter instead to the rather excellent work of the committee on rights and immunities of members which, as I have said many times in the past, was inspired in its creation by the hon. member for Peace River (Mr. Baldwin) who was the author of one of these motions.

I hope that committee will make specific reference to the circumstances of this case and, in reporting to the House, analyse some of these problems that I have referred to here,