

Privilege—Mr. Crosbie

facie case. Indeed, it was always up front because that was part of the finding. Once a case is found, then the very motion is put to the House.

My friend the hon. member for Durham-Northumberland (Mr. Lawrence) quoted Beauchesne's Citation 81(2). In my submission, Citation 81, Subparagraph (2), should not be read as a mandatory direction that a motion can only follow the finding of a prima facie case or can only follow the submission of argument by the hon. member phrasing the question of privilege. The proper interpretation of Citation 81(2) in my submission is that, unless there is a substantive motion moved by at least the conclusion of the argument, then the question of privilege is not well founded and, indeed, there is nothing to put to the House.

I submit very strongly that Citation 81(2) which I have cited to you does not rule out the practice of putting such a substantive motion up front in the argument. I can recall no precedent in this House to prevent that course being followed.

In any event, just to deal very briefly with the point raised by the government House leader in his very brief, and in my respectful opinion ineffectual, intervention, he made the point that a substantive motion had to be preceded by 48 hours' notice. That, of course, is nonsense. Mr. Speaker Jerome found it to be nonsense. As reported on page 3294 of *Hansard* for February 28, 1978, Mr. Speaker Jerome said:

If the action was deliberate and was then the subject of a substantive motion—

As this will be.

—as required by the precedents, it might be argued by the mover of that substantive motion that rather than having the substantive motion dealt with in its regular place under private members' notices of motions, for example, it ought to enjoy the precedence accorded to privileged motions.

That is why, because of the uniqueness and rarity of substantive questions of privilege arising in the House of Commons, it enjoys the kind of precedence that Mr. Speaker Jerome points out motions based on privilege ought to enjoy.

Just so there is no inferences left that I am leaving anything out with respect to the brief and slight intervention by the acting House leader for the New Democratic Party, Mr. Speaker Jerome's judgment starts on page 3293 of *Hansard* for February 28, 1978 and concludes on page 3295.

There were other subsequent interventions based on that question of privilege. I commend not just the reading of that ruling to the hon. member who made the brief intervention, but a study of it, which I have given to the ruling.

Mr. Pinard: Madam Speaker, I will try not to be too long, despite the good advice given by my colleague from the Yukon. Very briefly, may I draw your attention to Beauchesne's fifth edition, Citation 85. It describes the kind of motion that usually follows a complaint of a breach of privilege. Citation 85 reads:

A complaint of a breach of privilege must conclude with a motion providing the House an opportunity to take some action. That action is normally the reference of the matter to the Standing Committee on Privileges and Elections for examination.

That is a substantive motion which does not require any other notice but a notice to raise a question of privilege, as was done by the hon. member for St. John's West. On the other hand, if the hon. member for St. John's West was to move another substantive motion accusing a minister of deliberately misleading the House, we would have to take into consideration a quote from Erskine May found on pages 367 and 368, which reads:

"Matters to be dealt with by a substantive motion."—Certain matters cannot be debated, save upon a substantive motion which admits of a distinct vote of the House. Among these are the conduct of the sovereign—

And so on. We have also the conduct of:

—members of either house of Parliament and judges of the superior courts of the United Kingdom—

Therefore, there are two separate points. First, if hon. members opposite choose the procedure of complaining of breach of privilege, then members are not allowed, according to a ruling by Mr. Speaker Jerome, to use unparliamentary language in exposing facts. If you come to the conclusion that there is a prima facie case of privilege, Madam Speaker, then you allow a motion to be put. This type of motion does not contain any offensive language because it is a mere reference to the Standing Committee on Privileges and Elections for consideration of the matter.

Mr. Nielsen: Not at all.

Mr. Pinard: On the other hand, if the hon. member for St. John's West was a little more courageous and had the courage to move a straightforward motion accusing the Minister of Justice (Mr. Chrétien) formally of deliberately misleading the House, then he would have had to give the normal notice under Standing Order 42 and suffer the consequences of his motion. But we would not be allowed to debate that today.

Hon. members opposite have chosen an indirect way to do this and they must live with the procedure as it is. Therefore, hon. members opposite are ill-founded in their approach in trying to seize this opportunity to add to the offence and insult of yesterday against the Minister of Justice (Mr. Chrétien) and against this institution by trying to use more unparliamentary language through pleading a case wherein they pretend to suffer a breach of privilege.

● (1540)

Madam Speaker: It is quite obvious that we are really confusing two types of procedure. The hon. member for Yukon has just quoted precedents about notices of motions and different types of motions, but he confused the two types of motions in indicating to the Chair what the conduct of the Chair should be. It is quite obvious to me, having looked into the rules and precedents of the House, that having chosen the route of raising a question of privilege, the hon. member for St. John's West should now expose his question of privilege, but of course he should not use unparliamentary language. At this point or during the course of his presentation, or even in the notice he has given—he has given me notice but he has not given the motion he would like to move—he could give the