

## HOUSE OF COMMONS

Tuesday, April 20, 1971

The House met at 2 p.m.

## PRIVILEGE

## MR. BALDWIN—KEEPING OF DOSSIERS ON MEMBERS OF PARLIAMENT BY ROYAL CANADIAN MOUNTED POLICE

**Mr. G. W. Baldwin (Peace River):** Mr. Speaker, I rise on a question of privilege in respect of which I have given Your Honour notice. Since it affects an issue which we discussed yesterday in the House, I understand that oral notice has been given to the Solicitor General as well.

When I raised my question of privilege yesterday I think Your Honour quite wisely indicated that before the matter was decided Your Honour might wish to avail yourself of assistance and advice from other members of the House on the general issue of whether or not there is a prima facie case of privilege, in the absence of which, of course, no motion could be put.

Let me make it clear at the outset that I do not challenge the right of the authorities, including the Royal Canadian Mounted Police, in matters involving the criminal law or security to deal with Members of Parliament as Canadians in the same way as other Canadians are dealt with, subject, of course, to their traditional rights and privileges which I shall cite to Your Honour later.

There was one exception to this. There was a fascinating case in the United Kingdom in 1939 when Mr. Duncan Sandys, a Member of Parliament, came into possession of certain information with respect to the armed forces. This is a well known case and is cited in many of the authorities. How the information came into Mr. Sandys' possession is not clear, but he went to the Minister of Defence and asked that it be confirmed. He said if the information was given to him he would remain silent. The minister did not confirm the information but shortly afterward Mr. Sandys was served with a summons. He went into the House, raised the matter as a question of privilege and, as I understand it, the House took the position that only with the approval of the chamber could the summons proceed. This approval having been given, the matter went forward to trial. That is really not the case here.

What we are dealing with here involves the traditional and proverbial rights of Members of Parliament. Both May and Beauchesne deal with this question to some extent. May, for example, in the eighth chapter of the seventeenth edition at pages 122 and 123 states that it is not proper to impugn the conduct of members in the House or to threaten them with future exposure if they take part in debates of the House. The author goes on to say—I am now quoting from page 123:

Conduct not amounting to a direct attempt to influence a member in the discharge of his duties but having a tendency to impair his independence in the future performance of his duty will also be treated as a breach of privilege.

I intend to establish my case by quoting to Your Honour statements from *Hansard* and from an interview conducted outside the House with the minister. It may be possible that the information collected with regard to Members of Parliament has been collected for no good reason and with no thought of future action, but if this is the case these files are no more than the product of a bureaucratic pack rat and ought to be destroyed.

• (2:10 p.m.)

I should like to quote from the British Bill of Rights:

That the freedom of speech in debates or proceedings in Parliament are not to be impeached or questioned in any Court or place out of Parliament.

This surely remains in force, Mr. Speaker, even if Members of Parliament do not know whose conduct is being impeached or questioned or for what reasons.

Beauchesne's Fourth Edition, paragraph 119 (2), reads as follows:

Freedom of speech is a sacred principle and if there is a place where it should be fully respected that place is the Parliament of the nation, and it is the Speaker's responsibility to see that this principle is not infringed upon.

Attached to the fourth edition of Beauchesne is a very interesting annex dealing with a report brought in by the United Kingdom Parliament on April 5, 1939. It is a very lengthy and useful report but I shall quote only two brief paragraphs. At page 428 of Beauchesne we find this statement:

The dignity and independence of the two Houses...are in great measure preserved by keeping their privileges indefinite. If all the privileges of Parliament were set down and ascertained, and no privilege to be allowed but what was so defined and determined, it were easy for the executive power to devise some new case, not within the line of privilege, and under pretence thereof to harass any refractory member and violate the freedom of Parliament.

My second quotation from the report is as follows:

Your committee would emphasize a point mentioned in the report which they made to the House in the last session of Parliament, namely, that the privilege of freedom of speech enjoyed by Members of Parliament is in truth the privilege of their constituents. It is secured to members not for their personal benefit, but to enable them to discharge the functions of their office without fear of prosecutions civil or criminal.

Having cited that as a very brief synopsis of some of the law, practice and precedents, I now put before Your Honour some of the statements made in this House yesterday and later outside the House. I am referring to page 5032 of yesterday's *Hansard*, and my first quotation is from a question put by the hon. member for Hamilton West (Mr. Alexander). He asked:

In view of the fact that some time ago one of the officials of the RCMP indicated to me during a meeting of the justice committee that perhaps there would be files on Members of Parliament in the event that complaints were made by constituents