

Privilege—Mr. Stanfield

Today I should like to put a question to the Minister of the Environment. Last week there was a massive recall of many thousands of United States automobiles because they were not meeting pollution standards. Since similar cars are on the roads in Canada, I should like to ask the minister what the situation is here. Is the minister ordering a similar recall in this country?

Hon. Len Marchand (Minister of State (Environment)): I will have to take that question as notice and look into the matter.

Mr. Grafftey: The Canadian people are being told time and time again that because of the climate here, the automobile pollution problem is more serious than it is in the United States. Can the minister tell us why laws considered necessary in the United States should apparently not be needed in Canada? If the situation is as I have described it, what action can we expect in Canada?

Mr. Marchand: I shall include that matter in my investigation and report to the hon. member.

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PRIVILEGE**MR. STANFIELD—SURVEILLANCE OF CANDIDATES SEEKING PUBLIC OFFICE**

Mr. Speaker: Order, please. On April 26 the hon. member for Halifax (Mr. Stanfield) raised by way of a question of privilege the matter of the possible surveillance of candidates for election to this House. Some discussion took place on the subject on that occasion. On April 27 a motion, in fact, was put forward by the hon. member for Halifax, as follows:

That the matter of the Solicitor General's refusal to provide information respecting surveillance by the security forces of legitimate political candidates, and his contention that the McDonald commission is the only suitable vehicle to investigate a question affecting the privileges of all members of the House of Commons, be referred to the Standing Committee on Privileges and Elections.

There was some discussion of that motion and, in due course, I had to indicate there were certain procedural difficulties attached to it. I hope I expressed my attitude with regard to the seriousness of the matter by suggesting that further consideration might be given to a motion on the same subject in a different form.

Considerable discussion followed and, in fact, on May 2 the hon. member for Halifax put forward a motion which has now been in reserve for some time, namely:

That the matter of the surveillance by the security forces of candidates at general elections be referred to the Standing Committee on Privileges and Elections in order that the committee can determine and report upon the extent of and criteria for such surveillance.

A number of hon. members subsequently took part in the discussion. I indicated a few days ago that I would take the matter under consideration—that although I felt great sympathy with the importance of the subject matter I was having difficulty with regard to extending the parameters of privilege

[Mr. Grafftey.]

as we know them through the classic definition of privilege which is to be found in the nineteenth edition of May at page 67, and which has been referred to in many previous rulings:

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of parliament, and by members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law.

The House has always been guided by this general definition of privilege and I would refer hon. members, for example, to the statement of my distinguished predecessor, the hon. Speaker Lamoureux, of April 29, 1971, a statement which has often been quoted, certainly by myself:

On a number of occasions I have defined what I consider to be parliamentary privilege. Privilege is that which sets honourable members apart from other citizens giving them rights which the public do not possess. I suggest we should be careful in construing any particular circumstance which might add to the privileges which have been recognized over the years and perhaps over the centuries as belonging to members of the House of Commons. In my view, parliamentary privilege does not go much beyond the right of free speech in the House of Commons and the right of a member to discharge his duties in the House as a member of the House of Commons.

It is also very clear that while the House has the undoubted right to apply the law of privilege to specific circumstances, one House acting alone cannot create a new privilege. Herein lies the real dilemma for a Speaker. While I have every sympathy for the substance of the hon. member's complaint, I must determine by some measure the extent to which the complaint falls within the existing law of privilege or whether, by accepting it as a "prima facie case"—a popular definition, a phrase which I do not use often—I would be creating a new privilege. The difference lies in the fact that if the matter touches a question of privilege in the House the motion must be taken into consideration before any other business; if it does not, the motion is not by any means set aside for all time; it must simply be introduced in a more ordinary way.

It seemed to me that in dealing with a case which is very similar—the case involving the hon. member for Nickel Belt (Mr. Rodriguez)—that I had gone about as far as I could go in extending the benefit of the doubt in the circumstances. I felt, as I said, that we were getting into a new area, the question of electronic surveillance of elected members of the House of Commons. I was not sure how the law of privilege applied in those circumstances, and I took the matter seriously enough to conclude that the House ought to be able to address itself to that matter, on the benefit of the doubt, perhaps in debate, perhaps in the course of deliberations in a committee.

In any event, as is always the case, the decision is not made by the Chair; once the Chair decides that a matter does touch privilege it is for the House to make the decision as to what should happen to the motion. In that particular case, as I say, I gave the benefit of the doubt, though in doing so I was concerned, even in those circumstances, that I might be extending the classic definition of privilege on the basis of the precedents I have just quoted. In other words, while it is clear in those circumstances that the law of privilege applied to members in their capacity as legislators individually and col-