

*Privilege—Mr. Kilgour*

The court adjourned for lunch when I declined to identify those persons. On reconvening, Her Lordship again indicated I should identify my visitors, but counsel for the plaintiff withdrew the subpoena,—just before the court ruled on the contempt citation. Her Lordship later said that she had intended to cite me for contempt.

I have just quoted what the Hon. Member said in argument before me.

[*Translation*]

From this sequence of events, the Hon. Member claims that his privileges have been infringed.

There are two issues I wish to deal with before turning to the question raised by the Hon. Member.

[*English*]

First, I feel that the service of the subpoena within the precincts of the House of Commons was improper without the permission of the Speaker.

**Some Hon. Members:** Hear, hear!

• (1010)

**Mr. Speaker:** The precedents supporting this view are quite numerous, and it is unnecessary for me to cite them. Hon. Members should not, on their own accord, decide to accept service within the precincts. Nevertheless, if they wish to waive their parliamentary immunity, they can do so by leaving the precincts and accepting the service elsewhere. To do otherwise is to put at risk our ancient privileges, which are more than simply tradition. They are part of the law of Canada.

The Chair is concerned that erosion over time of those privileges would not serve this institution's interests. I could add, nor would it serve the public interest. Our privileges exist to enable Members to perform their duties without let or hindrance and, by extension, to protect the rights of the public they serve and represent.

[*Translation*]

Second, I would warn and caution those who attempt to further improper service of subpoenas, that they may be acting in a manner that is in contempt of the House. In this respect, I refer Hon. Members to the first issue of the "Minutes of Proceedings and Evidence of the Special Committee on Rights and Immunities of Members" presented to this House on July 12, 1976, where at page 1:19, Members will note that a Committee of the British House found it a contempt of Parliament to do some-

thing that has the object "—of furthering legal proceedings—" which are improper *ab initio*.

[*English*]

The basis of the Hon. Member's submission is that where civil actions are concerned, Canadians should know that they can speak to Members of Parliament in confidence without fear of later disclosure in a court of law. While appreciating the Hon. Member's point, I have had difficulty in finding a precedent to support the view that communications between an MP and his or her constituents or, indeed, the public in general, are privileged in the same way as those between lawyer and client.

Speaker Lamoureux in a ruling of April 29, 1971, had this to say:

Privilege is that which sets Hon. 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 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.

This view was reinforced on February 20, 1975, by Speaker Jerome, who made the following comment:

The consequences of extending that definition (of parliamentary privilege) to innumerable areas outside this Chamber into which the work of an MP might carry him, and particularly to the great number of grievances he might encounter in the course of that work, would run contrary to the basic concept of privilege.

[*Translation*]

On this last point I would also refer Hon. Members to my ruling on November 17, 1987 where I explained that the House cannot, in fact, create new privileges.

[*English*]

Perhaps an argument could be made that to be forced to testify in a court of law on a matter concerning confidential communications with constituents amounts to an undue influence, thus hindering the Member in the proper fulfilment of his duties. This argument might be easier to sustain if the Hon. Member had availed himself of the remedy available to him. He could have declined to appear as a witness, as he was entitled to do by virtue of his privilege as a Member of Parliament. By waiving his privilege, appearing, being sworn and answering some questions, he appears to have voluntarily sub-