

HOUSE OF COMMONS

Wednesday, December 21, 1960

The house met at 2.30 p.m.

PRIVILEGE

MR. HOWARD—ELIGIBILITY OF MINISTERS TO SIT
IN HOUSE OF COMMONS

Mr. Speaker: Yesterday the hon. member for Skeena raised as a matter of privilege a question which was then deferred for further consideration today. As I understand it, the point made by the hon. member was one of interpretation of two statutes of parliament passed, of course, by this house. One was the Senate and House of Commons Act, and reference was made to section 10 as to the eligibility of members of the house to sit and vote under certain circumstances. The other was the appropriation to certain members of parliament of allowances for motor cars. I think that was the particular allowance to which the hon. member referred.

The question raised is a point of law as to the interpretation and effect of the statutes. I have to determine whether it is also a question of privilege in this house. Admittedly in certain circumstances the right of a member to hold his seat is a matter of privilege and interest to the house, and discussions of such matters are provided for under standing order 30.

The first point to decide is whether this is a proper question of the privileges of the house or any of its members. If any hon. member would like to assist in consideration of this question of whether there is a *prima facie* question of privilege raised, I would be glad to hear him at this time. I understood the hon. member for Skeena had pretty well completed his statement, but if he wished to add anything perhaps he should do so first.

Mr. Frank Howard (Skeena): Mr. Speaker, as I attempted to indicate, the primary purpose in raising this question was not to have people ejected from the house, but to protect them in the future from something which I think was done inadvertently. That is the real effect of repeal of the statute that contained that saving feature. My purpose was also to protect members of the cabinet, if the house decided to take some corrective action, from the penalty which might be imposed in a suit against any individual,

namely the \$200 a day penalty that may be imposed by the court upon people sitting in the house contrary to the provisions of the act. This was my primary purpose.

Perhaps the house is of the opinion that it may not be specifically a question of privilege, as you have mentioned, Mr. Speaker, but the government and the house may perhaps consider it of such importance and urgency that some corrective measure should be taken.

Hon. E. D. Fulton (Minister of Justice): Mr. Speaker, I would like to deal with this matter briefly, not so much on the point of whether or not it is a proper question of privilege but as to whether there is anything in the question itself.

I believe that if one were to press the point that this is not a proper question of privilege, one might dispose of it on that basis. At least it could certainly be argued that if it is to be raised as a question of privilege, it must be raised in a manner which is provided for matters of this importance; that is, that they must be founded on motions. The hon. member has not seen fit to present any motion, and I think a strong argument could be made that therefore it is not a proper question of privilege as he has raised it. But I feel that, the hon. member having stated his case, he has raised a question which should not be disposed of entirely on the technical point of whether or not it is a question of privilege. He has in effect brought into question the right of members of the government to continue as members of the house because they have accepted the motor car allowance. I am quite satisfied that to most hon. members of this house the point is not one they would take seriously. However, the hon. member for Skeena has seen fit to raise it and I think he should be answered. He based his so-called point of privilege on the contention that the Appropriation Act of 1931 was repealed by a provision in the revised statute enactment of 1948. The Appropriation Act of 1931, which first gave recognition to the motor car allowance to cabinet ministers, itself provided that:

—the acceptance of such sums not to vacate their respective seats in parliament:

That was a provision of the appropriation act in question. The hon. member's argument, therefore, is that the protection was removed because, he says, the Appropriation Act of 1931 was repealed. May I point out to him