

*Privilege—Mr. MacKay*

fy from the chair the whole question of matters sub judice, and for that reason I welcome the contributions of other hon. members.

**Mr. G. W. Baldwin (Peace River):** Mr. Speaker, let me say at once that I believe Your Honour and members on both sides of the House will accept the fact that my hon. friend from Central Nova (Mr. MacKay) has been completely objective in his whole approach to this matter. This might not be relevant to a decision on the issue, but I submit it is something the House should bear in mind.

After giving this matter a good deal of attention over the weekend since Your Honour intervened, after looking over the precedents and checking the facts, it is my opinion that rather than the House considering the extent to which the hon. member for Central Nova should be inhibited in dealing with this issue, we would be in a far better position and doing much more justice if this House were considering invoking its penal jurisdiction and sanctions against the plaintiff in the action, as I hope to show during the course of my argument.

What are the facts? As the hon. member said, he was pursuing a reasoned and studied inquiry, in a very objective way, of what was an extremely difficult problem and in the course of this investigation he had occasion to ask questions in the House, to bring motions and to participate in debates. During a period when the House was not in session, if my information is correct, the hon. member issued a press release accompanied by a statement and a document dealing with the question of the comparative prices of goods in certain duty-free shops in the airports in Montreal and shops in the city of Montreal.

I want to pause at this point to say that in doing what he did the hon. member was only doing what had been done by the department of the Minister of Consumer and Corporate Affairs (Mr. Ouellet). Unfortunately, I do not have the release here, but a report was issued by the minister in October, 1975, which was in the same general terms. It did not deal precisely with the plaintiff in the action against the hon. member or with any of its subsidiary companies, but it was a statement and a report by the Department of Consumer and Corporate Affairs drawing attention to the fact that there was a grave discrepancy between prices and the publication of those prices in the duty-free shops and in the ordinary stores in the city and suggesting to tourists and others that they should exercise great caution in making purchases. So the hon. member, in issuing a statement related to these prices, was doing only what he had a duty to do, not only as a citizen but as a member of this House.

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

**Mr. Baldwin:** Subsequently, the plaintiff in this action, Thomcor Holdings Limited, issued a statement of claim and a writ against the hon. member for Central Nova and three other people alleged to be—and actually they are—employees of the research bureau of Her Majesty's Loyal Opposition. I do not intend to take the time of the House or of Your Honour by going over all the details of the statement of claim, but it was a statement of claim for libel based on allegations contained in the statement issued by my hon. friend.

[Mr. Speaker.]

In particular, paragraphs 11 and 12 of the statement of claim said the statements issued by the hon. member for Central Nova were published and were understood to mean that the plaintiff sold goods at prices which were not lower than most, if not all, retail outlets; that the plaintiff, in any event, did not sell its goods at prices which represented 25 to 60 per cent savings as advertised; that the plaintiff was misleading the public and that the plaintiff was, or was probably, guilty of a criminal offence under the misleading advertising provisions of the Combines Investigation Act. Then there was a claim for damages and loss of profits in the amount of \$250,000.

That is a broad allegation against the hon. member for Central Nova, but it is nevertheless restricted to allegations made in the statement he issued and which was made the subject of the action for libel and damages. I submit, therefore, that we must consider the rights of the hon. member in light of the terms of the action taken against him. While it is true that the hon. member came to this House and, quite manfully, said in a question of privilege which he raised and upon which Your Honour commented yesterday, I believe, that he had done what he had done as a private citizen and was not specifically seeking any special rights and immunities as a member of parliament, I would call to the attention of the Chair and all hon. members that it is not easy for a member of parliament to achieve that objective, no matter how desirous he might be to stand alone as a private citizen. He is a member of parliament and his rights and immunities must be considered in that light. This becomes important as I shall show a little later in the course of my argument.

On the basis of the facts to which reference has been made, the hon. member asked a question in this House on February 4. That question, of course, will be recalled by Your Honour; it appears on the record at page 10622 of *Hansard* for February 4, 1976:

Mr. Speaker, I have a brief question for the Minister of National Revenue. Has the hon. gentleman checked to determine under what circumstances the retained earnings or other assets of Sky Shops Limited from its Bahamian subsidiary or subsidiaries were brought into Canada and whether all of the requirements of Canadian tax law were satisfied in this respect?

I submit, Mr. Speaker, that it requires the greatest ingenuity to place the context of that question within the framework of the action brought against the hon. member and his co-defendants, and action for libel commenced by Thomcor Holdings Limited. The style of cause for this action did not include Sky Shops Limited about which the question was asked; it was on a different tack entirely. The action for libel had nothing to do with the question asked by my hon. friend.

● (1520)

Up until 1961 it was only in respect of criminal actions that sub judice could be raised. At that time it was also an action for libel and a question was asked relating to that action which the Speaker ruled out of order. The members of the House at Westminster were so concerned about this that a special committee was set up to examine the issue and to bring in a report. That committee examined the matter very extensively, as a result of which the rules and Standing Orders of the British House were amended and