

Question of Privilege

Mr. Bell (Carleton): Then vote for the motion.

Mr. Starr: May I appeal to the Prime Minister again? Will he not prevail upon the Minister of Justice to reveal the facts now at this time in respect of this case? If not, we have no alternative but to ask that the motion be put.

Mr. Speaker: Order, please. This is not an enviable position which the Chair is being placed in at the moment. I have been given an opportunity during the last hour or so to reflect on the very serious matter raised by the hon. member for Calgary North. I must point out that I regret very much his original motion could not be accepted because of a technical difficulty, and he gave written notice subsequently, at 2.40 or 2.45, which was about the time the motion would have been discussed in any event.

● (3:40 p.m.)

I am satisfied and pleased with the way the matter has come to a head. As hon. members know, the Chair is guided by citation 104(5) which says:

As a motion taken at the time for matters of privilege is thereby given precedence over the prearranged program of public business, the Speaker requires to be satisfied, both that there is a prima facie case that a breach of privilege has been committed, and also that the matter is being raised at the earliest opportunity.

I expect it might have been argued, inasmuch as the statements were made on Friday last, that the matter was not raised at the first opportunity, but we are dealing now specifically with allegations as reported in a newspaper outside the house and the allegations repeated by the hon. member in the house. I am inclined to believe there is a prima facie case of privilege in this instance but I might point out to hon. members—and I am sorry I have to use the word “but”—that it does not necessarily follow that if there is a question of privilege the motion made necessarily is acceptable according to the rules, practice and procedure of the house.

What we are dealing with now is an accusation made by some hon. members against another hon. member. The subject matter which gave rise to the statements made by the Minister of Justice, which is in the background of what we are dealing with now, is an accusation made against the Minister of Justice—

Some hon. Members: No, no.

[Mr. Pearson.]

Mr. Speaker:—and there is a suggestion that the Minister of Justice has in some way conducted himself in an improper manner. This is the only interpretation which can be placed on the motion put forward by the hon. member.

There are any number of precedents indicating what has to be done in such instances. I would refer hon. members in particular to the *Journals* of the House of Commons, Volume 105, 1959, at page 584, where the Speaker, who was faced with a somewhat similar case, was given notice and after lengthy consideration delivered a judgment which covered some four or five pages in the *Journals*. I might say that that Speaker had a considerable advantage at that time over the present Speaker. However, fortunately I can take advantage of his ruling and quote from it:

In my view, simple justice requires that no honourable member should have to submit to investigation of his conduct by the house or a committee until he has been charged with an offence.

Then, further on:

In the case before us no honourable member has taken the responsibility of making a specific charge against the honourable member—

The motion I have before me says:

That the Minister of Justice be required forthwith to substantiate the charges made inside and outside this Chamber which have reflected unfortunately and improperly upon members of Her Majesty's Privy Council.

It is obvious that what we are doing in this motion is impugning the conduct of the Minister of Justice who himself perhaps impugned the conduct of other members but, as I have said, this is not what we are faced with at present. I am impressed by the suggestion made by the hon. members for York South (Mr. Lewis) and Red Deer (Mr. Thompson) who say that the proper course to take in respect of this type of matter is to refer the subject matter of the motion to a committee.

I should like to bring to the attention of hon. members Bourinot's fourth edition, page 162, where it says:

A reference to a committee is no doubt the proper procedure in all cases in which there are reasonable doubts as to the facts or the course that should be pursued, especially when it is necessary to examine precedents or witnesses.

I have given the matter very serious thought and have looked at it as objectively as I can. I can come to no other conclusion than that the motion as drafted now cannot be accepted by the Chair because it is too