

# HOUSE OF COMMONS

Friday, March 10, 1972

The House met at 11 a.m.

## PRIVILEGE

### MOTIONS ARISING OUT OF DELAY IN TABLING AUDITOR GENERAL'S REPORT—RULING BY MR. SPEAKER

**Mr. Speaker:** Yesterday the Chair received five notices of questions of privilege under Standing Order 17. All five were related to one or another aspect of the tabling of the Auditor General's report, and to references that had been made in debate to the delay in filing last year's report. In his reply, the President of the Privy Council agreed to sponsor one of the motions and it was unanimously agreed that the matter in dispute would be referred to the Public Accounts Committee.

At the suggestion of the Leader of the Opposition, the Chair agreed to give further consideration to the other motions although it was pointed out that it would be difficult not to take into account that one of the several methods for proceeding proposed by hon. members had been agreed to by the whole House. To some extent, at least, consideration of the alternative proposals has to be somewhat theoretical; traditionally, the Chair is reluctant to make procedural rulings in such circumstances. I will therefore be very brief, which I hope will not be a reflection on the importance of the matter raised by the hon. members who presented motions to the Chair under the terms of Standing Order 17.

One of the suggestions made yesterday is that a charge against a senior public servant gives rise to a question of privilege. Hon. members know that there have been many instances over the years where accusations or charges have been made in relation to senior public servants. The Chair has never condoned such actions. Indeed, just a few weeks ago I suggested that a motion under Standing Order 43 was irregular to the extent that it contained charges against the chairman of the Public Service Commission. It was not my view, however, that the question was one of privilege, but rather one of procedural order. In the matter before us now, I would agree again that it is irregular for any hon. member to make a charge, directly or indirectly, against a senior public official in the service of the government or of parliament. I refer hon. members to citation 152(4) of Beauchesne's Fourth Edition, as follows:

All references to judges and courts of justice and to personages of high official station, of the nature of personal attack and censure, have always been considered unparliamentary, and the Speakers of the British and Canadian Houses have always treated them as breaches of order.

The Chair is in full agreement with the citation, and I would hope that hon. members would remember that the practice is based on simple common sense and fair play. Hon. members will note, however, that there is no suggestion, either in the Beauchesne citation or anywhere in our

precedents, that such breaches of order are tantamount to breaches of privilege.

• (1110)

With respect, I cannot accept the interesting suggestion that parliamentary privilege extends to senior officials, be they senior officials of parliament or of government.

Privilege, as hon. members know, is the sum of the special rights enjoyed by members over and beyond the rights enjoyed by other citizens under the common law. Without going into further detail on the definition of parliamentary privilege, I think it should be noted that it has never been deemed to extend to officials or servants of parliament.

The second aspect of this question is the interesting proposition advanced by the hon. member for Peace River that it would be a breach of privilege to impede hon. members in the discharge of their duties to deny the Auditor General adequate working facilities.

In the course of argument it was indicated that this is not a new complaint but has reference rather to a situation which is alleged to have obtained for some time. This, it seems to me, has to be viewed much more as a matter of administration than as one of parliamentary privilege.

In this respect, the complaint should be considered by way of substantive motion rather than under the guise of privilege. Alternatively, such grievances can be studied by an appropriate committee of the House, which is precisely the action which the House unanimously endorsed yesterday.

For these reasons, I have come to the conclusion that I cannot put this question to the House as one of a *prima facie* case of breach of parliamentary privilege. I remind hon. members that this is not a decision on the substance of the matter but one only on procedure, which is the limit of the Speaker's responsibility in such matters. In this respect, I refer hon. members to a decision of Mr. Speaker Michener who, having refused to put a motion as one of privilege, concluded his ruling with the following words which I believe apply to the present ruling. I quote from the *Journals* of June 19, 1959, at page 586:

In finding that a question of the privileges of the House is not *prima facie* involved in this motion, I am making a procedural decision the effect of which will not prevent the further discussion by the House of the matters in issue. The effect is to refuse precedence to this discussion but not to prevent it. No barrier is raised to the presentation of this matter under different circumstances on another occasion. For example, the subject matter could be brought before the House as an amendment to the next motion to go into supply.

These words of a learned and distinguished former Speaker apply very well to the present situation.