

RULING BY MR. SPEAKER

MR. SPEAKER: Earlier today, the honourable Member for Yukon (Mr. Nielsen) rose on a question of privilege relating to statements made by the Honourable the Solicitor General (Mr. Allmand) in a press interview where questions were asked about a matter previously referred by the House to the Standing Committee on Privileges and Elections. The duty of the Chair is to rule whether there is a *prima facie* case of privilege which would make it possible for the honourable Member for Yukon to put a motion of censure against the Minister.

The Member made a well researched presentation to the House. He cited a number of authors and precedents which the Chair agreed to study before making a ruling. I have now had an opportunity to do so and am prepared to give honourable Members the doubtful benefit of the knowledge gained from a study of the precedents cited by the honourable Member as well as other precedents and citations.

Honourable Members will appreciate, I am sure, that it is an extremely serious matter for the House even to debate a motion of censure against one of its Members. My information is that the last instance of such a debate goes back to 1925. This, in itself, is an indication that the House does not lightly embark on such a course of action and the Chair itself must exercise extreme caution before allowing such a debate to take place under the guise of an alleged breach of parliamentary privilege.

The submission is that statements made by a Member outside the House, contrary to an order of the House about matters currently under investigation by a committee, constitute a breach of privilege and a contempt of Parliament. In support of his claim the honourable Member has quoted citations from Beauchesne, Bourinot and May. He refers firstly to a citation in May's 17th edition at page 119. The author states that: "...by the ancient custom of Parliament no act done at any committee should be divulged before the same be reported to the House."

However, this principle clearly deals with *in camera* sessions and I find it difficult to relate that citation to the present circumstances. The honourable Member has cited Bourinot's 4th edition at page 474. The same principle is quoted to the effect that it is a breach of privilege to publish the proceedings of a committee before they are formally reported to the House. As I have said, this citation does not appear to be applicable to the present case. The honourable Member then refers to Beauchesne's 4th edition at page 429. The author quotes the following doctrine: "The House of Commons has disciplinary powers over its Members, and a Member who abuses his privilege of speech may be punished, not merely by suspension from the service of the House, but by imprisonment or expulsion from the House, or both."

It should be pointed out, however, that this is an excerpt from a report of a committee of the British House dealing with the British Official Secrets Act. Again, I

suggest respectfully that the citation is not applicable to the case now before us. I think the essential procedural point to be considered is the distinction between statements made in the House and statements made outside the House. It is a well known rule that Members ought not to comment in the House about proceedings in a committee until such committee has reported to the House. This cannot possibly apply to statements made outside the House. The distinction is consistent with the ruling made by the Chair yesterday during the question period, and consistent also with a ruling made by Mr. Speaker Macnaughton on June 5, 1964. On that earlier occasion, the Chair agreed with the argument put forth by the honourable Member for Yukon that when breach of privilege is claimed, a distinction must be made between words spoken in the House and words spoken outside the House.

The honourable Member has referred finally to a citation found in May's 18th edition at page 132, as follows: "It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence."

Were the words spoken by the Minister an attempt to impede and obstruct the work of the committee? Was the making of a statement outside the House contrary to the order of the House? In fact, the order of the House was that the Standing Committee on Privileges and Elections consider a matter raised by the honourable Member for Kingston and the Islands (Miss MacDonald). The suggestion is that the action of the House ordering that a matter be considered by a committee, is at the same time a prohibition that it be commented upon, otherwise than in committee.

I have been unable to find any precedent to support this suggestion. In my estimation the citation from May's 18th edition dealing with the impeding or obstruction of House business contemplates situations that are entirely different from that which is now under question.

The examples given by May of misconduct which may be treated as a contempt of Parliament refer to misconduct of strangers, misconduct of counsel, misbehaviour on the part of witnesses and disobedience to rules or orders of either House. Examples of such disobedience are given as the refusal or neglect of a witness to attend, the neglect to make a return, neglect to withdraw from the House when so directed, disclosure of proceedings in secret session. All these are clear examples of malfeasance which, in my view, do not appear to be relevant to the circumstances of the case before us. The contention of the honourable Member, based on a citation from Eric Taylor's "The House of Commons at Work", is that a breach of privilege is also a contempt of Parliament. This may be so but the fact remains, however, according