

*Privilege—Mr. Jourdenais**[Translation]*

The Hon. Member for Glengarry—Prescott—Russell (Mr. Boudria) maintained that Hon. Members should see this as an infringement of their rights and privileges. He stated that nothing should prevent Hon. Members from putting questions in the House and that Members should not have to be afraid that if they do, people who provided them with information might be fired.

[English]

At the time the Chair took the matter under advisement, and I am now ready to report to the House. I should say that this matter has given the Chair a great deal of concern.

At page 72 of the Twentieth Edition of Erskine May, the following citation is found:

Certain rights and immunities, such as freedom from arrest or freedom of speech, belong primarily to the individual members of each House and only secondarily and indirectly to the House itself; but there are other rights and immunities, such as the power to punish for contempt and the power to regulate its own constitution, which, being rather directed to the maintenance of its own collective authority than to the security of the individual members, may be said to belong primarily to each House as a collective body. This is a useful distinction, but fundamentally it is only as a means to the effective discharge of the functions of the House that individual privileges are enjoyed by its Members. The Commons, in their reasons offered at a conference with the Lords in the controversy arising from the case of *Shirley vs Fagg*,—

It is an old case referred to in the book from which I am quoting.

—in asserting that privilege of Parliament belongs to every Member of the House of Commons, declared “that the reason of that Privilege is, that the Members of the House of Commons may freely attend the public affairs of that House, without disturbance or interruption”.

I think I will come down on what has to be the legal side of the issue, but I should say that part of the complaint of Hon. Members who raised the matter was that they felt that under the circumstances they would not be able to—and again I quote from Erskine May as I previously quoted—“freely attend the public affairs of that House, without disturbance or interruption”. That is why this case is difficult. It is also why the Chair must be careful to define the issue and to make a ruling which stays within bounds.

I must underline to the House that the ancient privileges enjoyed by Members, separately and collectively, are privileges enjoyed by Members of Parliament only. Such privileges do not apply to public servants or persons outside the House, and there is no osmosis of privilege because someone transacts or converses with a Member of the House.

I have reviewed the elements of the matter raised by the Hon. Member for La Prairie, and I have found considerable difficulty in establishing evidence of a *prima facie* case of a breach of privilege; that is not to say that the matter is not a very grave concern.

The conversations referred to have taken place outside the House and outside the proceedings of the standing committee. The public servant was acting on his own initiative and not at the request of the committee.

● (1510)

The Deputy Minister appears to have acted within the authority conferred upon him by law, and in exercising that authority, in the opinion of the Chair, has not breached privilege nor impeded members in any way.

The Hon. Member for La Prairie has asked the Chair to consider and rule upon the narrow question of whether or not parliamentary privilege has been infringed in this case. On the narrow grounds upon which I must decide, I cannot find that a valid question of privilege exists.

Having said that, the broader question raised by the Hon. Member as to whether or not an injustice has occurred still remains to be answered. On that question, however at least at the moment and on the facts in front of me, I do not believe I have any authority to pronounce.

[Translation]

The Hon. Member may, if he so wishes, bring this matter to the attention of the Standing Committee on Labour, Employment and Immigration. However, I must advise him that he does not have a well-founded question of privilege.

[English]

I repeat, the issue raised in this matter is a serious one. In these circumstances, and on the facts, I have had to decide that it falls short of a question of privilege. But there is a fundamental question that, at the moment at least, I do not feel I can answer, namely, the question which is always with us in a democratic institution of when and under what circumstances is it appropriate for a public servant to give information to Members of Parliament or others. As the Chair understands, there is a process still going on in which it will be left for others perhaps to decide. As I have said, this is a matter that can be taken by Hon. Members to the committee.

I want to thank all Hon. Members for their interventions. I want to say again that I felt the intervention was well taken and that under the circumstances I have had to decide on the narrow point, and I have done so. The decision takes nothing away from the importance of the question and this decision in no way precludes members from taking the matter further in another place. It is not to rule one way or the other on whether under the circumstances the particular public servant is receiving, as I said earlier in the ruling, justice in the ordinary sense of that word. Again, I thank Hon. Members.

Mr. Dan Heap (Spadina): Mr. Speaker, I rise on the same question of privilege. I thank you for your ruling in the matter, which is quite clear. I would ask whether you can give guidance to Members of Parliament, perhaps including at least the members of the committee that you mentioned, as to whether there are considerations that we ought to observe in the event, for example, that that civil servant may be called before our committee. Are there limits that either he or we must observe in this matter as to his freedom to give information? Can we find out whether there are such limits and what they are?