

*Privilege—Mr. Stevens*

**Mr. Stevens:** If I remind the House of some of the statements which have been made by Mr. Justice O'Sullivan as to the nature of the resolution before us, surely every member of this House of Commons will say that, rather than press on, we should secure proper legal advice. In his judgment, Mr. Justice O'Sullivan has made statements like this:

In my opinion it would be unconstitutional and illegal for her federal ministers, or for her federal parliamentarians, to give her advice in matters for which they are not responsible under our Constitution.

Mr. Justice O'Sullivan was referring to the advice that, in effect, this resolution would be coming to Her Majesty in the right of Canada.

**Madam Speaker:** I am afraid the hon. member is going into the point of order which was put forward by the Right Hon. Leader of the Opposition (Mr. Clark) on which I said that I would rule later. I would ask him not to refer to the matter which was raised by the Right Hon. Leader of the Opposition but, if he can, to conclude his argumentation for his question of privilege.

**Mr. Stevens:** Madam Speaker, I am well aware of your earlier ruling today concerning the point of order raised by the Right Hon. Leader of the Opposition; but I am just giving illustrations of the type of point on which we members of Parliament should normally call upon our attorney general to advise us, because here we have a situation where two judges in the Manitoba court of appeal have made certain statements. That entire appeal is now before the Supreme Court of Canada. As we want to know what course to follow in this House, I think it is relevant that we know what the Supreme Court of Canada may subsequently hold, should we continue with our course of action of considering the constitutional resolution, dealing with it and even passing it.

● (2040)

For example, at another point, Mr. Justice O'Sullivan stated, "It is constitutionally incompetent and illegal—"

**Madam Speaker:** Order, please. The hon. member is discussing the point of order brought up by the Right Hon. Leader of the Opposition. We cannot discuss it anymore. It is under advisement and I shall rule on it later. Those examples should not be referred to, first of all, because the question is under advisement, and, second, I thought the hon. member had a new question of privilege which I am trying to understand. It would be helpful if he kept to that question of privilege so that I may rule upon it.

**Mr. Stevens:** Madam Speaker, if I may, I should like to have taken as read the various references I might have read into the record concerning the judgments in the Manitoba Court of Appeal. I indicated to you in my letter that my position is that I believe the Attorney General has compromised his position. I would sum up simply by saying that if you—

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

**Mr. Stevens:** Madam Speaker, I did not realize I was so popular with members of the government!

**Mr. Chénier:** Stick to banking.

**Mr. Stevens:** If I am that popular, I can always continue.

**An hon. Member:** No, sum up.

**Mr. Stevens:** I know that some of my colleagues want to speak on the—

**An hon. Member:** On the Constitution.

**Mr. Stevens:** —the question of privilege that I have raised. If I may, I should like to once again emphasize that if you feel I have a question of privilege and if you feel that I have made a case that the Attorney General of Canada who should have this impartial neutrality—

**Mr. Nielsen:** He is so impartial, he is not even here.

**Mr. Stevens:** —I could read to you various quotations from Professor Edwards in a booklet he prepared for the McDonald commission setting out the clear role of the Attorney General in Canada and how he has this rather unique role as adviser to Parliament. I could read those sections into the record, but I know we want to get on with the business of the House. In summary, if you find that I have a prima facie case, I would propose to move:

That the increasing tendency of the Minister of Justice and Attorney General of Canada to act in a manner incompatible with the separate requirements and traditions of each of his two portfolios, and the continued inability of the House to obtain independent legal advice from the Attorney General in keeping with the proper constitutional place of that officer of the Crown, as set out in the Department of Justice Act and in particular Section 5 thereof, be referred to the Standing Committee on Privileges and Elections.

**Madam Speaker:** As I understand the grievance of the hon. member—

**Mr. Nielsen:** Not a grievance.

**Madam Speaker:** —the question of privilege which the hon. member has just exposed, he feels that the legal advice on the resolution of the Constitution given by the Minister of Justice and Attorney General of Canada was not impartial. Whether it was or was not—

**Mr. Crosbie:** Madam Speaker, I have a point of order.

**An hon. Member:** Oh, come on.

**Some hon. Members:** Oh, oh!

**Mr. Crosbie:** I do not take my orders from the hon. gentlemen opposite.

**Mr. Nielsen:** He has a right to be heard.

**Mr. Crosbie:** Before you make a ruling, I have a submission to make on the same point. This is a very important point and a very important subject dealing with the competence of the Attorney General of Canada. I have some further evidence